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मध्यप्रदेश राजपत्र

प्राधिकार से प्रकाशित

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भोपाल, शुक्रवार, दिनांक 1 नवम्बर 2013—कार्तिक 10, शक 1935

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संसद् के अधिनियम

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 24 अक्टूबर 2013

THE COMPANIES ACT, 2013

ARRANGEMENT OF

CHAPTER-I

PRELIMINARY

1. Shot title, extent, commencement and application.
2. Definitions.

CHAPTER II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

3. Formation of company.
4. Memorandum.
5. Articles.
6. Act to override memorandum, articles, etc.
7. Incorporation of company.
8. Formation of companies with charitable objects, etc.
9. Effect of registration.
10. Effect of memorandum and articles.
11. Commencement of business, etc.
12. Registered office of company.
13. Alteration of memorandum.
14. Alteration of articles.
15. Alteration of memorandum or articles to be noted in every copy.
16. Rectification of name of company.
17. Copies of memorandum, articles, etc., to be given to members.
18. Conversion of companies already registered.
19. Subsidiary company not to hold shares in its holding company.
20. Service of documents.
21. Authentication of documents, proceedings and contracts.
22. Execution of bills of exchange, etc.

CHAPTER III

PROSPECTUS AND ALLOTMENT OF SECURITIES

PART I.—*Public offer*

23. Public offer and private placement.
24. Power of Securities and Exchange Board to regulate issue and transfer of securities, etc.
25. Document containing offer of securities for sale to be deemed prospectus.
26. Matters to be stated in prospectus.
27. Variation in terms of contract or objects in prospectus.
28. Offer of sale of shares by certain members of company.
29. Public offer of securities to be in dematerialised form.
30. Advertisement of prospectus.
31. Shelf prospectus.
32. Red herring prospectus.
33. Issue of application forms for securities.
34. Criminal liability for mis-statements in prospectus.
35. Civil liability for mis-statements in prospectus.
36. Punishment for fraudulently inducing persons to invest money.
37. Action by affected persons.
38. Punishment for personation for acquisition, etc., of securities.
39. Allotment of securities by company.
40. Securities to be dealt with in stock exchanges.
41. Global depository receipt.

PART II.—*Private placement*

42. Offer or invitation for subscription of securities on private placement.

CHAPTER IV

SHARE CAPITAL AND DEBENTURES

43. Kinds of share capital.
 44. Nature of shares or debentures.
 45. Numbering of shares.
 46. Certificate of shares.
 47. Voting rights.
 48. Variation of shareholders' rights.
 49. Calls on shares of same class to be made on uniform basis.
 50. Company to accept unpaid share capital, although not called up.
 51. Payment of dividend in proportion to amount paid-up.
 52. Application of premiums received on issue of shares.
 53. Prohibition on issue of shares at discount.
 54. Issue of sweat equity shares.
 55. Issue and redemption of preference shares.
 56. Transfer and transmission of securities.
 57. Punishment for personation of shareholder.
 58. Refusal of registration and appeal against refusal.
 59. Rectification of register of members.
 60. Publication of authorised, subscribed and paid-up capital.
 61. Power of limited company to alter its share capital.
 62. Further issue of share capital.
 63. Issue of bonus shares.
 64. Notice to be given to Registrar for alteration of share capital.
 65. Unlimited company to provide for reserve share capital on conversion into limited company.
 66. Reduction of share capital.
 67. Restrictions on purchase by company or giving of loans by it for purchase of its shares.
 68. Power of company to purchase its own securities.
 69. Transfer of certain sums to capital redemption reserve account.
 70. Prohibition for buy-back in certain circumstances.
 71. Debentures.
 72. Power to nominate.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

73. Prohibition on acceptance of deposits from public.
74. Repayment of deposits, etc., accepted before commencement of this Act.
75. Damages for fraud.
76. Acceptance of deposits from public by certain companies.

CHAPTER VI

REGISTRATION OF CHARGES

77. Duty to register charges, etc.
78. Application for registration of charge.
79. Section 77 to apply in certain matters.
80. Date of notice of charge.
81. Register of charges to be kept by Registrar.
82. Company to report satisfaction of charge.
83. Power of Registrar to make entries of satisfaction and release in absence of intimation from company.
84. Intimation of appointment of receiver or manager.
85. Company's register of charges.
86. Punishment for contravention.
87. Rectification by Central Government in register of charges.

CHAPTER VII

MANAGEMENT AND ADMINISTRATION

88. Register of members, etc.
89. Declaration in respect of beneficial interest in any share.
90. Investigation of beneficial ownership of shares in certain cases.
91. Power to close register of members or debenture holders or other security holders.
92. Annual return.
93. Return to be filed with Registrar in case promoters' stake changes.
94. Place of keeping and inspection of registers, returns, etc.
95. Registers, etc., to be evidence.
96. Annual general meeting.
97. Power of Tribunal to call annual general meeting.
98. Power of Tribunal to call meetings of members, etc.
99. Punishment for default in complying with provisions of sections 96 to 98.
100. Calling of extraordinary general meeting.
101. Notice of meeting.
102. Statement to be annexed to notice.
103. Quorum for meetings.

104. Chairman of meetings.
105. Proxies.
106. Restriction on voting rights.
107. Voting by show of hands.
108. Voting through electronic means.
109. Demand for poll.
110. Postal ballot.
111. Circulation of members' resolution.
112. Representation of President and Governors in meetings.
113. Representation of corporations at meeting of companies and of creditors.
114. Ordinary and special resolutions.
115. Resolutions requiring special notice.
116. Resolutions passed at adjourned meeting.
117. Resolutions and agreements to be filed.
118. Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot.
119. Inspection of minute-books of general meeting.
120. Maintenance and inspection of documents in electronic form.
121. Report on annual general meeting.
122. Applicability of this Chapter to One Person Company.

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

123. Declaration of dividend.
124. Unpaid Dividend Account.
125. Investor Education and Protection Fund.
126. Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.
127. Punishment for failure to distribute dividends.

CHAPTER IX

ACCOUNTS OF COMPANIES

128. Books of account, etc., to be kept by company.
129. Financial statement.
130. Re-opening of accounts on court's or Tribunal's orders.
131. Voluntary revision of financial statements or Board's report.
132. Constitution of National Financial Reporting Authority.
133. Central Government to prescribe accounting standards.
134. Financial Statement, Board's report, etc.
135. Corporate Social Responsibility.
136. Right of member to copies of audited financial statement.
137. Copy of financial statement to be filed with Registrar.
138. Internal Audit.

CHAPTER X

AUDIT AND AUDITORS

139. Appointment of auditors.
140. Removal, resignation of auditor and giving of special notice.
141. Eligibility, qualifications and disqualifications of auditors.
142. Remuneration of auditors.
143. Powers and duties of auditors and auditing standards.
144. Auditor not to render certain services.
145. Auditors to sign audit reports, etc.
146. Auditors to attend general meeting.
147. Punishment for contravention.
148. Central Government to specify audit of items of cost in respect of certain companies.

CHAPTER XI

APPOINTMENT AND QUALIFICATIONS OF DIRECTORS

149. Company to have Board of Directors.
150. Manner of selection of independent directors and maintenance of data bank of independent directors.
151. Appointment of director elected by small shareholders.
152. Appointment of directors.
153. Application for allotment of Director Identification Number.
154. Allotment of Director Identification Number.
155. Prohibition to obtain more than one Director Identification Number.
156. Director to intimate Director Identification Number.
157. Company to inform Director Identification Number to Registrar.
158. Obligation to indicate Director Identification Number.
159. Punishment for contravention.
160. Right of persons other than retiring directors to stand for directorship.
161. Appointment of additional director, alternate director and nominee director.
162. Appointment of directors to be voted individually.
163. Option to adopt principle of proportional representation for appointment of directors.
164. Disqualifications for appointment of director.
165. Number of directorships.
166. Duties of directors.
167. Vacation of office of director.
168. Resignation of director.
169. Removal of directors.
170. Register of directors and key managerial personnel and their shareholding.
171. Members' right to inspect.
172. Punishment.

CHAPTER XII

MEETINGS OF BOARD AND ITS POWERS

173. Meetings of Board.

174. Quorum for meetings of Board.
175. Passing of resolution by circulation.
176. Defects in appointment of directors not to invalidate actions taken.
177. Audit committee.
178. Nomination and remuneration committee and stakeholders relationship committee.
179. Powers of Board.
180. Restrictions on powers of Board.
181. Company to contribute to *bona fide* and charitable funds, etc.
182. Prohibitions and restrictions regarding political contributions.
183. Power of Board and other persons to make contributions to national defence fund, etc.
184. Disclosure of interest by director.
185. Loan to directors, etc.
186. Loan and investment by company.
187. Investments of company to be held in its own name.
188. Related party transactions.
189. Register of contracts or arrangements in which directors are interested.
190. Contract of employment with managing or whole-time directors.
191. Payment to director for loss of office, etc., in connection with transfer of undertaking, property or shares.
192. Restriction on non-cash transactions involving directors.
193. Contract by One Person Company.
194. Prohibition on forward dealings in securities of company by director or key managerial personnel.
195. Prohibition on insider trading of securities.

CHAPTER XIII

APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

196. Appointment of managing director, whole-time director or manager.
197. Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits.
198. Calculation of profits.
199. Recovery of remuneration in certain cases.
200. Central Government or company to fix limit with regard to remuneration.
201. Forms of, and procedure in relation to, certain applications.
202. Compensation for loss of office of managing or whole-time director or manager.
203. Appointment of key managerial personnel.
204. Secretarial audit for bigger companies.
205. Functions of company secretary.

CHAPTER XIV

INSPECTION, INQUIRY AND INVESTIGATION

206. Power to call for information, inspect books and conduct inquiries.
207. Conduct of inspection and inquiry.
208. Report on inspection made.
209. Search and seizure.
210. Investigation into affairs of company.
211. Establishment of Serious Fraud Investigation Office.
212. Investigation into affairs of company by Serious Fraud Investigation Office.
213. Investigation into company's affairs in other cases.
214. Security for payment of costs and expenses of investigation.
215. Firm, body corporate or association not to be appointed as inspector.
216. Investigation of ownership of company.
217. Procedure, powers, etc., of inspectors.
218. Protection of employees during investigation.
219. Power of inspector to conduct investigation into affairs of related companies, etc.
220. Seizure of documents by inspector.
221. Freezing of assets of company on inquiry and investigation.
222. Imposition of restrictions upon securities.
223. Inspector's report.
224. Actions to be taken in pursuance of inspector's report.
225. Expenses of investigation.
226. Voluntary winding up of company, etc., not to stop investigation proceedings.
227. Legal advisers and bankers not to disclose certain information.
228. Investigation, etc., of foreign companies.
229. Penalty for furnishing false statement, mutilation, destruction of documents.

CHAPTER XV

COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS

230. Power to compromise or make arrangements with creditors and members.
231. Power of Tribunal to enforce compromise or arrangement.
232. Merger and amalgamation of companies.
233. Merger or amalgamation of certain companies.
234. Merger or amalgamation of company with foreign company.
235. Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.
236. Purchase of minority shareholding.
237. Power of Central Government to provide for amalgamation of companies in public interest.
238. Registration of offer of schemes involving transfer of shares.
239. Preservation of books and papers of amalgamated companies.
240. Liability of officers in respect of offences committed prior to merger, amalgamation, etc.

CHAPTER XVI

PREVENTION OF OPPRESSION AND MISMANAGEMENT

- 241. Application to Tribunal for relief in cases of oppression, etc.
- 242. Powers of Tribunal.
- 243. Consequence of termination or modification of certain agreements.
- 244. Right to apply under section 241.
- 245. Class action.
- 246. Application of certain provisions to proceedings under section 241 or section 245.

CHAPTER XVII

REGISTERED VALUERS

- 247. Valuation by registered valuers.

CHAPTER XVIII

REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES

- 248. Power of Registrar to remove name of company from register of Companies.
- 249. Restrictions on making application under section 248 in certain situations.
- 250. Effect of company notified as dissolved.
- 251. Fraudulent application for removal of name.
- 252. Appeal to Tribunal.

CHAPTER XIX

REVIVAL AND REHABILITATION OF SICK COMPANIES

- 253. Determination of sickness.
- 254. Application for revival and rehabilitation.
- 255. Exclusion of certain time in computing period of limitation.
- 256. Appointment of interim administrator.
- 257. Committee of creditors.
- 258. Order of Tribunal.
- 259. Appointment of administrator.
- 260. Powers and duties of company administrator.
- 261. Scheme of revival and rehabilitation.
- 262. Sanction of scheme.
- 263. Scheme to be binding.
- 264. Implementation of scheme.
- 265. Winding up of company on report of company administrator.
- 266. Power of Tribunal to assess damages against delinquent directors, etc.
- 267. Punishment for certain offences.
- 268. Bar of jurisdiction.
- 269. Rehabilitation and Insolvency Fund.

CHAPTER XX

WINDING UP

- 270. Modes of winding up.

PART I.— *Winding up by the Tribunal*

271. Circumstances in which company may be wound up by Tribunal.
272. Petition for winding up.
273. Powers of Tribunal.
274. Directions for filing statement of affairs.
275. Company Liquidators and their appointments.
276. Removal and replacement of liquidator.
277. Intimation to Company Liquidator, provisional liquidator and Registrar.
278. Effect of winding up order.
279. Stay of suits, etc., on winding up order.
280. Jurisdiction of Tribunal.
281. Submission of report by Company Liquidator.
282. Directions of Tribunal on report of Company Liquidator.
283. Custody of company's properties.
284. Promoters, directors, etc., to co-operate with Company Liquidator.
285. Settlement of list of contributories and application of assets.
286. Obligations of directors and managers.
287. Advisory Committee.
288. Submission of periodical reports to Tribunal.
289. Power of Tribunal on application for stay of winding up.
290. Powers and duties of Company Liquidator.
291. Provision for professional assistance to Company Liquidator.
292. Exercise and control of Company Liquidator's powers.
293. Books to be kept by Company Liquidator.
294. Audit of Company Liquidator's accounts.
295. Payment of debts by contributory and extent of set-off.
296. Power of Tribunal to make calls.
297. Adjustment of rights of contributories.
298. Power to order costs.
299. Power to summon persons suspected of having property of company, etc.
300. Power to order examination of promoters, directors, etc.
301. Arrest of person trying to leave India or abscond.
302. Dissolution of company by Tribunal.
303. Appeals from orders made before commencement of Act.

PART II.— *Voluntary winding up*

304. Circumstances in which company may be wound up voluntarily.
305. Declaration of solvency in case of proposal to wind up voluntarily.
306. Meeting of creditors.
307. Publication of resolution to wind up voluntarily.
308. Commencement of voluntary winding up.
309. Effect of voluntary winding up:

310. Appointment of Company Liquidator.
311. Power to remove and fill vacancy of Company Liquidator.
312. Notice of appointment of Company Liquidator to be given to Registrar.
313. Cesser of Board's powers on appointment of Company Liquidator.
314. Powers and duties of Company Liquidator in voluntary winding up.
315. Appointment of committees.
316. Company Liquidator to submit report on progress of winding up.
317. Report of Company Liquidator to Tribunal for examination of persons.
318. Final meeting and dissolution of company.
319. Power of Company Liquidator to accept shares, etc., as consideration for sale of property of company.
320. Distribution of property of company.
321. Arrangement when binding on company and creditors.
322. Power to apply to Tribunal to have questions determined, etc.
323. Costs of voluntary winding up.

PART III.—Provisions applicable to every mode of winding up

324. Debts of all descriptions to be admitted to proof.
325. Application of insolvency rules in winding up of insolvent companies.
326. Overriding preferential payments.
327. Preferential payments.
328. Fraudulent preference.
329. Transfers not in good faith to be void.
330. Certain transfers to be void.
331. Liabilities and rights of certain persons fraudulently preferred.
332. Effect of floating charge.
333. Disclaimer of onerous property.
334. Transfers, etc., after commencement of winding up to be void.
335. Certain attachments, executions, etc., in winding up by Tribunal to be void.
336. Offences by officers of companies in liquidation.
337. Penalty for frauds by officers.
338. Liability where proper accounts not kept.
339. Liability for fraudulent conduct of business.
340. Power of Tribunal to assess damages against delinquent directors, etc.
341. Liability under sections 339 and 340 to extend to partners or directors in firms or companies.
342. Prosecution of delinquent officers and members of company.
343. Company Liquidator to exercise certain powers subject to sanction.
344. Statement that company is in liquidation.
345. Books and papers of company to be evidence.
346. Inspection of books and papers by creditors and contributories.
347. Disposal of books and papers of company.
348. Information as to pending liquidations.

349. Official Liquidator to make payments into public account of India.
350. Company Liquidator to deposit monies into scheduled bank.
351. Liquidator not to deposit monies into private banking account.
352. Company Liquidation Dividend and Undistributed Assets Account.
353. Liquidator to make returns, etc.
354. Meetings to ascertain wishes of creditors or contributories.
355. Court, Tribunal or person, etc., before whom affidavit may be sworn.
356. Powers of Tribunal to declare dissolution of company void.
357. Commencement of winding up by Tribunal.
358. Exclusion of certain time in computing period of limitation.

PART IV.—*Official liquidators*

359. Appointment of Official Liquidator.
360. Powers and functions of Official Liquidator.
361. Summary procedure for liquidation.
362. Sale of assets and recovery of debts due to company.
363. Settlement of claims of creditors by Official Liquidator.
364. Appeal by creditor.
365. Order of dissolution of company.

CHAPTER XXI

PART I.—*Companies authorised to register under this Act*

366. Companies capable of being registered.
367. Certificate of registration of existing companies.
368. Vesting of property on registration.
369. Saving of existing liabilities.
370. Continuation of pending legal proceedings.
371. Effect of registration under this Part.
372. Power of Court to stay or restrain proceedings.
373. Suits stayed on winding up order.
374. Obligation of Companies registering under this Part.

PART II.—*Winding up of unregistered companies*

375. Winding up of unregistered companies.
376. Power to wind up foreign companies although dissolved.
377. Provisions of Chapter cumulative.
378. Saving and construction of enactments conferring power to wind up partnership firm, association or company, etc., in certain cases.

CHAPTER XXII

COMPANIES INCORPORATED OUTSIDE INDIA

379. Application of Act to foreign companies.
380. Documents, etc., to be delivered to Registrar by foreign companies.
381. Accounts of foreign company.

382. Display of name, etc., of foreign company.
383. Service on foreign company.
384. Debentures, annual return, registration of charges, books of account and their inspection.
385. Fee for registration of documents.
386. Interpretation.
387. Dating of prospectus and particulars to be contained therein.
388. Provisions as to expert's consent and allotment.
389. Registration of prospectus.
390. Offer of Indian Depository Receipts.
391. Application of sections 34 to 36 and Chapter XX.
392. Punishment for contravention.
393. Company's failure to comply with provisions of this Chapter not to affect validity of contracts, etc.

CHAPTER XXIII

GOVERNMENT COMPANIES

394. Annual reports on Government companies.
395. Annual reports where one or more State Governments are members of companies.

CHAPTER XXIV

REGISTRATION OFFICES AND FEES

396. Registration offices.
397. Admissibility of certain documents as evidence.
398. Provisions relating to filing of applications, documents, inspection, etc., in electronic form.
399. Inspection, production and evidence of documents kept by Registrar.
400. Electronic form to be exclusive, alternative or in addition to physical form.
401. Provision of value added services through electronic form.
402. Application of provisions of Information Technology Act, 2000.
403. Fee for filing, etc.
404. Fees, etc., to be credited into public account.

CHAPTER XXV

COMPANIES TO FURNISH INFORMATION OR STATISTICS

405. Power of Central Government to direct companies to furnish information or statistics.

CHAPTER XXVI

NIDHIS

406. Power to modify Act in its application to *Nidhis*.

CHAPTER XXVII

NATIONAL COMPANY LAW TRIBUNAL AND APPELLATE TRIBUNAL

407. Definitions.
408. Constitution of National Company Law Tribunal.
409. Qualification of President and Members of Tribunal.

410. Constitution of Appellate Tribunal.
411. Qualifications of Chairperson and members of Appellate Tribunal.
412. Selection of Members of Tribunal and Appellate Tribunal.
413. Term of office of President, Chairperson and other Members.
414. Salary, allowances and other terms and conditions of service of Members.
415. Acting President and Chairperson of Tribunal or Appellate Tribunal.
416. Resignation of Members.
417. Removal of Members.
418. Staff of Tribunal and Appellate Tribunal.
419. Benches of Tribunal.
420. Orders of Tribunal.
421. Appeal from Orders of Tribunal.
422. Expeditious disposal by Tribunal and Appellate Tribunal.
423. Appeal to Supreme Court.
424. Procedure before Tribunal and Appellate Tribunal.
425. Power to punish for contempt.
426. Delegation of powers.
427. President, Members, officers, etc., to be public servants.
428. Protection of action taken in good faith.
429. Power to seek assistance of Chief Metropolitan Magistrate, etc.
430. Civil court not to have jurisdiction.
431. Vacancy in Tribunal or Appellate Tribunal not to invalidate acts or proceedings.
432. Right to legal representation.
433. Limitation.
434. Transfer of certain pending proceedings.

CHAPTER XXVIII

SPECIAL COURTS

435. Establishment of Special Courts.
436. Offences triable by Special Courts.
437. Appeal and revision.
438. Application of Code to proceedings before Special Court.
439. Offences to be non-cognizable.
440. Transitional provisions.
441. Compounding of certain offences.
442. Mediation and conciliation penal.
443. Power of Central Government to appoint company prosecutors.
444. Appeal against acquittal.
445. Compensation for accusation without reasonable cause.
446. Application of fines.

CHAPTER XXIX

MISCELLANEOUS

447. Punishment for fraud.
448. Punishment for false statements.

449. Punishment for false evidence.
450. Punishment where no specific penalty or punishment is provided.
451. Punishment in case of repeated default.
452. Punishment for wrongful withholding of property.
453. Punishment for improper use of "Limited" or "Private Limited".
454. Adjudication of penalties.
455. Dormant company.
456. Protection of action taken in good faith.
457. Non-disclosure of information in certain cases.
458. Delegation by Central Government of its powers and functions.
459. Powers of Central Government or Tribunal to accord approval, etc., subject to conditions and to prescribe fees on applications.
460. Condonation of delay in certain cases.
461. Annual report by Central Government.
462. Power to exempt class or classes of companies from provisions of this Act.
463. Power of court to grant relief in certain cases.
464. Prohibition of association or partnership of persons exceeding certain number.
465. Repeal of certain enactments and savings.
466. Dissolution of Company Law Board and consequential provisions.
467. Power of Central Government to amend Schedules.
468. Powers of Central Government to make rules relating to winding up.
469. Power of Central Government to make rules.
470. Power to remove difficulties.

SCHEDULE I

SCHEDULE II

SCHEDULE III

SCHEDULE IV

SCHEDULE V

SCHEDULE VI

SCHEDULE VII

Bhopal, the 24th October, 2013

No. 7002-280-21-A(Dr).—The following Act of the, Parliament published in the Gazette of India Extra-ordinary Part-II Section I dated the 30th September, 2013 is hereby republished for general information. The bill as passed by the House of Parliament received the assent of the President on 29th August, 2013.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE COMPANIES ACT, 2013

An

ACT

to consolidate and amend the law relating to companies.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Companies Act, 2013.

(2) It extends to the whole of India.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this

Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(4) The provisions of this Act shall apply to—

- (a) companies incorporated under this Act or under any previous company law;
- (b) insurance companies, except in so far as the said provisions are inconsistent with the provisions of the Insurance Act, 1938 or the Insurance Regulatory and Development Authority Act, 1999; 4 of 1938.
41 of 1999.
- (c) banking companies, except in so far as the said provisions are inconsistent with the provisions of the Banking Regulation Act, 1949; 10 of 1949.
- (d) companies engaged in the generation or supply of electricity, except in so far as the said provisions are inconsistent with the provisions of the Electricity Act, 2003; 36 of 2003.
- (e) any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act; and
- (f) such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification, specify in this behalf, subject to such exceptions, modifications or adaptation, as may be specified in the notification.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (1) “abridged prospectus” means a memorandum containing such salient features of a prospectus as may be specified by the Securities and Exchange Board by making regulations in this behalf;
- (2) “accounting standards” means the standards of accounting or any addendum thereto for companies or class of companies referred to in section 133;
- (3) “alter” or “alteration” includes the making of additions, omissions and substitutions;
- (4) “Appellate Tribunal” means the National Company Law Appellate Tribunal constituted under section 410;
- (5) “articles” means the articles of association of a company as originally framed or as altered from time to time or applied in pursuance of any previous company law or of this Act;
- (6) “associate company”, in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.
Explanation.—For the purposes of this clause, “significant influence” means control of at least twenty per cent. of total share capital, or of business decisions under an agreement;
- (7) “auditing standards” means the standards of auditing or any addendum thereto for companies or class of companies referred to in sub-section (10) of section 143;
- (8) “authorised capital” or “nominal capital” means such capital as is authorised by the memorandum of a company to be the maximum amount of share capital of the company;

(9) “banking company” means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(10) "Board of Directors" or "Board", in relation to a company, means the collective body of the directors of the company;

(11) "body corporate" or "corporation" includes a company incorporated outside India, but does not include—

(i) a co-operative society registered under any law relating to co-operative societies; and

(ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;

(12) "book and paper" and "book or paper" include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form;

(13) "books of account" includes records maintained in respect of—

(i) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;

(ii) all sales and purchases of goods and services by the company;

(iii) the assets and liabilities of the company; and

(iv) the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section;

(14) "branch office", in relation to a company, means any establishment described as such by the company;

(15) "called-up capital" means such part of the capital, which has been called for payment;

(16) "charge" means an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes a mortgage;

38 of 1949.

(17) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;

(18) "Chief Executive Officer" means an officer of a company, who has been designated as such by it;

(19) "Chief Financial Officer" means a person appointed as the Chief Financial Officer of a company;

(20) "company" means a company incorporated under this Act or under any previous company law;

(21) "company limited by guarantee" means a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up;

(22) "company limited by shares" means a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them;

(23) "Company Liquidator", in so far as it relates to the winding up of a company, means a person appointed by—

(a) the Tribunal in case of winding up by the Tribunal; or

(b) the company or creditors in case of voluntary winding up,

as a Company Liquidator from a panel of professionals maintained by the Central Government under sub-section (2) of section 275;

(24) "company secretary" or "secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 who is appointed by a company to perform the functions of a company secretary under this Act; 56 of 1980.

(25) "company secretary in practice" means a company secretary who is deemed to be in practice under sub-section (2) of section 2 of the Company Secretaries Act, 1980; 56 of 1980.

(26) "contributory" means a person liable to contribute towards the assets of the company in the event of its being wound up.

Explanation.—For the purposes of this clause, it is hereby clarified that a person holding fully paid-up shares in a company shall be considered as a contributory but shall have no liabilities of a contributory under the Act whilst retaining rights of such a contributory;

(27) "control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(28) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959; 23 of 1959.

(29) "court" means—

(i) the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any district court or district courts subordinate to that High Court under sub-clause (ii);

(ii) the district court, in cases where the Central Government has, by notification, empowered any district court to exercise all or any of the jurisdictions conferred upon the High Court, within the scope of its jurisdiction in respect of a company whose registered office is situate in the district;

(iii) the Court of Session having jurisdiction to try any offence under this Act or under any previous company law;

(iv) the Special Court established under section 435;

(v) any Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous company law;

(30) "debenture" includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not;

(31) "deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;

(32) "depository" means a depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; 22 of 1996.

(33) "derivative" means the derivative as defined in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(34) "director" means a director appointed to the Board of a company;

(35) "dividend" includes any interim dividend;

(36) "document" includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form;

(37) "employees' stock option" means the option given to the directors, officers or employees of a company or of its holding company or subsidiary company or companies, if any, which gives such directors, officers or employees, the benefit or right to purchase, or to subscribe for, the shares of the company at a future date at a pre-determined price;

(38) "expert" includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force;

(39) "financial institution" includes a scheduled bank, and any other financial institution defined or notified under the Reserve Bank of India Act, 1934;

2 of 1934.

(40) "financial statement" in relation to a company, includes—

(i) a balance sheet as at the end of the financial year;

(ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;

(iii) cash flow statement for the financial year;

(iv) a statement of changes in equity, if applicable; and

(v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv);

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;

(41) "financial year", in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up;

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year;

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause;

(42) "foreign company" means any company or body corporate incorporated outside India which—

(a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and

(b) conducts any business activity in India in any other manner.

(43) "free reserves" means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend:

Provided that—

(i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or

(ii) any change in carrying amount of an asset or of a liability recognised in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value,

shall not be treated as free reserves;

(44) "Global Depository Receipt" means any instrument in the form of a depository receipt, by whatever name called, created by a foreign depository outside India and authorised by a company making an issue of such depository receipts;

(45) "Government company" means any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company;

(46) "holding company", in relation to one or more other companies, means a company of which such companies are subsidiary companies;

(47) "independent director" means an independent director referred to in sub-section (5) of section 149;

(48) "Indian Depository Receipt" means any instrument in the form of a depository receipt created by a domestic depository in India and authorised by a company incorporated outside India making an issue of such depository receipts;

(49) "interested director" means a director who is in any way, whether by himself or through any of his relatives or firm, body corporate or other association of individuals in which he or any of his relatives is a partner, director or a member, interested in a contract or arrangement, or proposed contract or arrangement, entered into or to be entered into by or on behalf of a company;

(50) "issued capital" means such capital as the company issues from time to time for subscription;

(51) "key managerial personnel", in relation to a company, means—

(i) the Chief Executive Officer or the managing director or the manager;

(ii) the company secretary;

(iii) the whole-time director;

(iv) the Chief Financial Officer; and

(v) such other officer as may be prescribed;

(52) "listed company" means a company which has any of its securities listed on any recognised stock exchange;

(53) "manager" means an individual who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, whether under a contract of service or not;

(54) "managing director" means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.

Explanation.—For the purposes of this clause, the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within the substantial powers of management;

(55) “member”, in relation to a company, means—

(i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;

(ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;

(iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;

(56) “memorandum” means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act;

(57) “net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;

(58) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(59) “officer” includes any director, manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or any one or more of the directors is or are accustomed to act;

(60) “officer who is in default”, for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:—

(i) whole-time director;

(ii) key managerial personnel;

(iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;

(iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;

(v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;

(vi) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;

(vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer;

(61) "Official Liquidator" means an Official Liquidator appointed under sub-section (1) of section 359;

(62) "One Person Company" means a company which has only one person as a member;

(63) "ordinary or special resolution" means an ordinary resolution, or as the case may be, special resolution referred to in section 114;

(64) "paid-up share capital" or "share capital paid-up" means such aggregate amount of money credited as paid-up as is equivalent to the amount received as paid-up in respect of shares issued and also includes any amount credited as paid-up in respect of shares of the company, but does not include any other amount received in respect of such shares, by whatever name called;

(65) "postal ballot" means voting by post or through any electronic mode;

(66) "prescribed" means prescribed by rules made under this Act;

(67) "previous company law" means any of the laws specified below:—

- | | |
|--|------------------|
| (i) Acts relating to companies in force before the Indian Companies Act, 1866; | 10 of 1866. |
| (ii) the Indian Companies Act, 1866; | 10 of 1866. |
| (iii) the Indian Companies Act, 1882; | 6 of 1882. |
| (iv) the Indian Companies Act, 1913; | 7 of 1913. |
| (v) the Registration of Transferred Companies Ordinance, 1942; | Ord. 54 of 1942. |
| (vi) the Companies Act, 1956; and | 1 of 1956. |
| (vii) any law corresponding to any of the aforesaid Acts or the Ordinances and in force— | |

(A) in the merged territories or in a Part B State (other than the State of Jammu and Kashmir), or any part thereof, before the extension thereto of the Indian Companies Act, 1913; or

7 of 1913.

62 of 1956.

25 of 1968.

Sikkim Act 8
of 1961.

(B) in the State of Jammu and Kashmir, or any part thereof, before the commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956, in so far as banking, insurance and financial corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu and Kashmir) Act, 1968, in so far as other corporations are concerned;

(viii) the Portuguese Commercial Code, in so far as it relates to *sociedades anonimas*; and

(ix) the Registration of Companies (Sikkim) Act, 1961;

(68) "private company" means a company having a minimum paid-up share capital of one lakh rupees or such higher paid-up share capital as may be prescribed, and which by its articles,—

(i) restricts the right to transfer its shares;

(ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

Provided further that—

(A) persons who are in the employment of the company; and

(B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased,

shall not be included in the number of members; and

(iii) prohibits any invitation to the public to subscribe for any securities of the company;

(69) "promoter" means a person—

(a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or

(b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or

(c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:

Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity;

(70) "prospectus" means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of a body corporate;

(71) "public company" means a company which—

(a) is not a private company;

(b) has a minimum paid-up share capital of five lakh rupees or such higher paid-up capital, as may be prescribed:

Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles ;

(72) "public financial institution" means—

(i) the Life Insurance Corporation of India, established under section 3 of the Life Insurance Corporation Act, 1956;

31 of 1956.

(ii) the Infrastructure Development Finance Company Limited, referred to in clause (vi) of sub-section (1) of section 4A of the Companies Act, 1956 so repealed under section 465 of this Act;

1 of 1956.

(iii) specified company referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;

58 of 2002.

(iv) institutions notified by the Central Government under sub-section (2) of section 4A of the Companies Act, 1956 so repealed under section 465 of this Act;

1 of 1956.

(v) such other institution as may be notified by the Central Government in consultation with the Reserve Bank of India:

Provided that no institution shall be so notified unless—

(A) it has been established or constituted by or under any Central or State Act; or

(B) not less than fifty-one per cent. of the paid-up share capital is held or controlled by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments;

(73) "recognised stock exchange" means a recognised stock exchange as defined in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 1956.

(74) "register of companies" means the register of companies maintained by the Registrar on paper or in any electronic mode under this Act;

(75) "Registrar" means a Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar, having the duty of registering companies and discharging various functions under this Act;

(76) "related party", with reference to a company, means—

(i) a director or his relative;

(ii) a key managerial personnel or his relative;

(iii) a firm, in which a director, manager or his relative is a partner;

(iv) a private company in which a director or manager is a member or director;

(v) a public company in which a director or manager is a director or holds along with his relatives, more than two per cent. of its paid-up share capital;

(vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;

(vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

(viii) any company which is—

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

(ix) such other person as may be prescribed;

(77) “relative”, with reference to any person, means any one who is related to another, if—

(i) they are members of a Hindu Undivided Family;

(ii) they are husband and wife; or

(iii) one person is related to the other in such manner as may be prescribed;

(78) “remuneration” means any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961;

43 of 1961.

(79) “Schedule” means a Schedule annexed to this Act;

2 of 1934.

(80) “scheduled bank” means the scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934;

42 of 1956.

(81) “securities” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

15 of 1992.

(82) “Securities and Exchange Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;

(83) “Serious Fraud Investigation Office” means the office referred to in section 211;

(84) “share” means a share in the share capital of a company and includes stock;

(85) "small company" means a company, other than a public company,—

(i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; or

(ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees:

Provided that nothing in this clause shall apply to—

(A) a holding company or a subsidiary company;

(B) a company registered under section 8; or

(C) a company or body corporate governed by any special Act;

(86) "subscribed capital" means such part of the capital which is for the time being subscribed by the members of a company;

(87) "subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company—

(i) controls the composition of the Board of Directors; or

(ii) exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies:

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

Explanation.—For the purposes of this clause,—

(a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;

(b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;

(c) the expression "company" includes any body corporate;

(d) "layer" in relation to a holding company means its subsidiary or subsidiaries;

(88) "sweat equity shares" means such equity shares as are issued by a company to its directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(89) "total voting power", in relation to any matter, means the total number of votes which may be cast in regard to that matter on a poll at a meeting of a company

if all the members thereof or their proxies having a right to vote on that matter are present at the meeting and cast their votes;

(90) "Tribunal" means the National Company Law Tribunal constituted under section 408;

(91) "turnover" means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year;

(92) "unlimited company" means a company not having any limit on the liability of its members;

(93) "voting right" means the right of a member of a company to vote in any meeting of the company or by means of postal ballot;

(94) "whole-time director" includes a director in the whole-time employment of the company;

(95) words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 shall have the meanings respectively assigned to them in those Acts.

42 of 1956.
15 of 1992.
22 of 1996.

CHAPTER II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

3. (1) A company may be formed for any lawful purpose by—

Formation of
company.

(a) seven or more persons, where the company to be formed is to be a public company;

(b) two or more persons, where the company to be formed is to be a private company; or

(c) one person, where the company to be formed is to be One Person Company that is to say, a private company,

by subscribing their names or his name to a memorandum and complying with the requirements of this Act in respect of registration:

Provided that the memorandum of One Person Company shall indicate the name of the other person, with his prior written consent in the prescribed form, who shall, in the event of the subscriber's death or his incapacity to contract become the member of the company and the written consent of such person shall also be filed with the Registrar at the time of incorporation of the One Person Company along with its memorandum and articles:

Provided further that such other person may withdraw his consent in such manner as may be prescribed:

Provided also that the member of One Person Company may at any time change the name of such other person by giving notice in such manner as may be prescribed:

Provided also that it shall be the duty of the member of One Person Company to intimate the company the change, if any, in the name of the other person nominated by him by indicating in the memorandum or otherwise within such time and in such manner as may be prescribed, and the company shall intimate the Registrar any such change within such time and in such manner as may be prescribed:

Provided also that any such change in the name of the person shall not be deemed to be an alteration of the memorandum.

(2) A company formed under sub-section (1) may be either—

- (a) a company limited by shares; or
- (b) a company limited by guarantee; or
- (c) an unlimited company.

Memorandum.

4. (1) The memorandum of a company shall state—

(a) the name of the company with the last word "Limited" in the case of a public limited company, or the last words "Private Limited" in the case of a private limited company;

Provided that nothing in this clause shall apply to a company registered under section 8;

(b) the State in which the registered office of the company is to be situated;

(c) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof;

(d) the liability of members of the company, whether limited or unlimited, and also state,—

(i) in the case of a company limited by shares, that liability of its members is limited to the amount unpaid, if any, on the shares held by them; and

(ii) in the case of a company limited by guarantee, the amount up to which each member undertakes to contribute—

(A) to the assets of the company in the event of its being wound-up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, as the case may be; and

(B) to the costs, charges and expenses of winding-up and for adjustment of the rights of the contributories among themselves;

(e) in the case of a company having a share capital,—

(i) the amount of share capital with which the company is to be registered and the division thereof into shares of a fixed amount and the number of shares which the subscribers to the memorandum agree to subscribe which shall not be less than one share; and

(ii) the number of shares each subscriber to the memorandum intends to take, indicated opposite his name;

(f) in the case of One Person Company, the name of the person who, in the event of death of the subscriber, shall become the member of the company.

(2) The name stated in the memorandum shall not—

(a) be identical with or resemble too nearly to the name of an existing company registered under this Act or any previous company law; or

(b) be such that its use by the company—

(i) will constitute an offence under any law for the time being in force; or

(ii) is undesirable in the opinion of the Central Government.

(3) Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains—

(a) any word or expression which is likely to give the impression that the company is in any way connected with, or having the patronage of, the Central Government, any State Government, or any local authority, corporation or body constituted by the Central Government or any State Government under any law for the time being in force; or

(b) such word or expression, as may be prescribed,

unless the previous approval of the Central Government has been obtained for the use of any such word or expression.

(4) A person may make an application, in such form and manner and accompanied by such fee, as may be prescribed, to the Registrar for the reservation of a name set out in the application as—

(a) the name of the proposed company; or

(b) the name to which the company proposes to change its name.

(5) (i) Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of sixty days from the date of the application.

(ii) Where after reservation of name under clause (i), it is found that name was applied by furnishing wrong or incorrect information, then,—

(a) if the company has not been incorporated, the reserved name shall be cancelled and the person making application under sub-section (4) shall be liable to a penalty which may extend to one lakh rupees;

(b) if the company has been incorporated, the Registrar may, after giving the company an opportunity of being heard—

(i) either direct the company to change its name within a period of three months, after passing an ordinary resolution;

(ii) take action for striking off the name of the company from the register of companies; or

(iii) make a petition for winding up of the company.

(6) The memorandum of a company shall be in respective forms specified in Tables A, B, C, D and E in Schedule I as may be applicable to such company.

(7) Any provision in the memorandum or articles, in the case of a company limited by guarantee and not having a share capital, purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member, shall be void.

5. (1) The articles of a company shall contain the regulations for management of the company. Articles.

(2) The articles shall also contain such matters, as may be prescribed:

Provided that nothing prescribed in this sub-section shall be deemed to prevent a company from including such additional matters in its articles as may be considered necessary for its management.

(3) The articles may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if conditions or procedures as that are more restrictive than those applicable in the case of a special resolution, are met or complied with.

(4) The provisions for entrenchment referred to in sub-section (3) shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company.

(5) Where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in such form and manner as may be prescribed.

(6) The articles of a company shall be in respective forms specified in Tables, F, G, H, I and J in Schedule I as may be applicable to such company.

(7) A company may adopt all or any of the regulations contained in the model articles applicable to such company.

(8) In case of any company, which is registered after the commencement of this Act, in so far as the registered articles of such company do not exclude or modify the regulations contained in the model articles applicable to such company, those regulations shall, so far as applicable, be the regulations of that company in the same manner and to the extent as if they were contained in the duly registered articles of the company.

(9) Nothing in this section shall apply to the articles of a company registered under any previous company law unless amended under this Act.

Act to over-
ride memoran-
dum, articles,
etc.

6. Save as otherwise expressly provided in this Act—

(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a company, or in any agreement executed by it, or in any resolution passed by the company in general meeting or by its Board of Directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of this Act; and

(b) any provision contained in the memorandum, articles, agreement or resolution shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.

Incorporation
of company.

7. (1) There shall be filed with the Registrar within whose jurisdiction the registered office of a company is proposed to be situated, the following documents and information for registration, namely:—

(a) the memorandum and articles of the company duly signed by all the subscribers to the memorandum in such manner as may be prescribed;

(b) a declaration in the prescribed form by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the formation of the company, and by a person named in the articles as a director, manager or secretary of the company, that all the requirements of this Act and the rules made thereunder in respect of registration and matters precedent or incidental thereto have been complied with;

(c) an affidavit from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five years and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;

(d) the address for correspondence till its registered office is established;

(e) the particulars of name, including surname or family name, residential address, nationality and such other particulars of every subscriber to the memorandum along with proof of identity, as may be prescribed, and in the case of a subscriber being a body corporate, such particulars as may be prescribed;

(f) the particulars of the persons mentioned in the articles as the first directors of the company, their names, including surnames or family names, the Director Identification Number, residential address, nationality and such other particulars including proof of identity as may be prescribed; and

(g) the particulars of the interests of the persons mentioned in the articles as the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed.

(2) The Registrar on the basis of documents and information filed under sub-section (1) shall register all the documents and information referred to in that sub-section in the register and issue a certificate of incorporation in the prescribed form to the effect that the proposed company is incorporated under this Act.

(3) On and from the date mentioned in the certificate of incorporation issued under sub-section (2), the Registrar shall allot to the company a corporate identity number, which shall be a distinct identity for the company and which shall also be included in the certificate.

(4) The company shall maintain and preserve at its registered office copies of all documents and information as originally filed under sub-section (1) till its dissolution under this Act.

(5) If any person furnishes any false or incorrect particulars of any information or suppresses any material information, of which he is aware in any of the documents filed with the Registrar in relation to the registration of a company, he shall be liable for action under section 447.

(6) Without prejudice to the provisions of sub-section (5) where, at any time after the incorporation of a company, it is proved that the company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company, or by any fraudulent action, the promoters, the persons named as the first directors of the company and the persons making declaration under clause (b) of sub-section (1) shall each be liable for action under section 447.

(7) Without prejudice to the provisions of sub-section (6), where a company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company or by any fraudulent action, the Tribunal may, on an application made to it, on being satisfied that the situation so warrants,—

(a) pass such orders, as it may think fit, for regulation of the management of the company including changes, if any, in its memorandum and articles, in public interest or in the interest of the company and its members and creditors; or

(b) direct that liability of the members shall be unlimited; or

(c) direct removal of the name of the company from the register of companies; or

(d) pass an order for the winding up of the company; or

(e) pass such other orders as it may deem fit.

Provided that before making any order under this sub-section,—

(i) the company shall be given a reasonable opportunity of being heard in the matter; and

(ii) the Tribunal shall take into consideration the transactions entered into by the company, including the obligations, if any, contracted or payment of any liability.

8. (1) Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company—

(a) has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object;

(b) intends to apply its profits, if any, or other income in promoting its objects; and

(c) intends to prohibit the payment of any dividend to its members,

Formation of companies with charitable objects, etc.

the Central Government may, by licence issued in such manner as may be prescribed, and on such conditions as it deems fit, allow that person or association of persons to be registered as a limited company under this section without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited", and thereupon the Registrar shall, on application, in the prescribed form, register such person or association of persons as a company under this section.

(2) The company registered under this section shall enjoy all the privileges and be subject to all the obligations of limited companies.

(3) A firm may be a member of the company registered under this section.

(4) (i) A company registered under this section shall not alter the provisions of its memorandum or articles except with the previous approval of the Central Government.

(ii) A company registered under this section may convert itself into company of any other kind only after complying with such conditions as may be prescribed.

(5) Where it is proved to the satisfaction of the Central Government that a limited company registered under this Act or under any previous company law has been formed with any of the objects specified in clause (a) of sub-section (1) and with the restrictions and prohibitions as mentioned respectively in clauses (b) and (c) of that sub-section, it may, by licence, allow the company to be registered under this section subject to such conditions as the Central Government deems fit and to change its name by omitting the word "Limited", or as the case may be, the words "Private Limited" from its name and thereupon the Registrar shall, on application, in the prescribed form, register such company under this section and all the provisions of this section shall apply to that company.

(6) The Central Government may, by order, revoke the licence granted to a company registered under this section if the company contravenes any of the requirements of this section or any of the conditions subject to which a licence is issued or the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest, and without prejudice to any other action against the company under this Act, direct the company to convert its status and change its name to add the word "Limited" or the words "Private Limited", as the case may be, to its name and thereupon the Registrar shall, without prejudice to any action that may be taken under sub-section (7), on application, in the prescribed form, register the company accordingly:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard:

Provided further that a copy of every such order shall be given to the Registrar.

(7) Where a licence is revoked under sub-section (6), the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company registered under this section:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard.

(8) Where a licence is revoked under sub-section (6) and where the Central Government is satisfied that it is essential in the public interest that the company registered under this section should be amalgamated with another company registered under this section and having similar objects, then, notwithstanding anything to the contrary contained in this Act, the Central Government may, by order, provide for such amalgamation to form a single company with such constitution, properties, powers, rights, interest, authorities and privileges and with such liabilities, duties and obligations as may be specified in the order.

(9) If on the winding up or dissolution of a company registered under this section, there remains, after the satisfaction of its debts and liabilities, any asset, they may be transferred to another company registered under this section and having similar objects, subject to such

conditions as the Tribunal may impose, or may be sold and proceeds thereof credited to the Rehabilitation and Insolvency Fund formed under section 269.

(10) A company registered under this section shall amalgamate only with another company registered under this section and having similar objects.

(11) If a company makes any default in complying with any of the requirements laid down in this section, the company shall, without prejudice to any other action under the provisions of this section, be punishable with fine which shall not be less than ten lakh rupees but which may extend to one crore rupees and the directors and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than twenty-five thousand rupees but which may extend to twenty-five lakh rupees, or with both:

Provided that when it is proved that the affairs of the company were conducted fraudulently, every officer in default shall be liable for action under section 447.

9. From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.

Effect of
registration.

10. (1) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by the company and by each member, and contained covenants on its and his part to observe all the provisions of the memorandum and of the articles.

Effect of
memorandum
and articles.

(2) All monies payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

11. (1) A company having a share capital shall not commence any business or exercise any borrowing powers unless—

Commence-
ment of
business, etc.

(a) a declaration is filed by a director in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him and the paid-up share capital of the company is not less than five lakh rupees in case of a public company and not less than one lakh rupees in case of a private company on the date of making of this declaration; and

(b) the company has filed with the Registrar a verification of its registered office as provided in sub-section (2) of section 12.

(2) If any default is made in complying with the requirements of this section, the company shall be liable to a penalty which may extend to five thousand rupees and every officer who is in default shall be punishable with fine which may extend to one thousand rupees for every day during which the default continues.

(3) Where no declaration has been filed with the Registrar under clause (a) of sub-section (1) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (2), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.

Registered
office of
company.

12. (1) A company shall, on and from the fifteenth day of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.

(2) The company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as may be prescribed.

(3) Every company shall—

(a) paint or affix its name, and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible letters, and if the characters employed therefor are not those of the language or of one of the languages in general use in that locality, also in the characters of that language or of one of those languages;

(b) have its name engraved in legible characters on its seal;

(c) get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications; and

(d) have its name printed on *hundies*, promissory notes, bills of exchange and such other documents as may be prescribed:

Provided that where a company has changed its name or names during the last two years, it shall paint or affix or print, as the case may be, along with its name, the former name or names so changed during the last two years as required under clauses (a) and (c):

Provided further that the words "One Person Company" shall be mentioned in brackets below the name of such company, wherever its name is printed, affixed or engraved.

(4) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within fifteen days of the change, who shall record the same.

(5) Except on the authority of a special resolution passed by a company, the registered office of the company shall not be changed,—

(a) in the case of an existing company, outside the local limits of any city, town or village where such office is situated at the commencement of this Act or where it may be situated later by virtue of a special resolution passed by the company; and

(b) in the case of any other company, outside the local limits of any city, town or village where such office is first situated or where it may be situated later by virtue of a special resolution passed by the company:

Provided that no company shall change the place of its registered office from the jurisdiction of one Registrar to the jurisdiction of another Registrar within the same State unless such change is confirmed by the Regional Director on an application made in this behalf by the company in the prescribed manner.

(6) The confirmation referred to in sub-section (5) shall be communicated within a period of thirty days from the date of receipt of application by the Regional Director to the company and the company shall file the confirmation with the Registrar within a period of sixty days of the date of confirmation who shall register the same and certify the registration within a period of thirty days from the date of filing of such confirmation.

(7) The certificate referred to in sub-section (6) shall be conclusive evidence that all the requirements of this Act with respect to change of registered office in pursuance of sub-section (5) have been complied with and the change shall take effect from the date of the certificate.

(8) If any default is made in complying with the requirements of this section, the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every day during which the default continues but not exceeding one lakh rupees.

13. (1) Save as provided in section 61, a company may, by a special resolution and after complying with the procedure specified in this section, alter the provisions of its memorandum.

Alteration of memorandum.

(2) Any change in the name of a company shall be subject to the provisions of sub-sections (2) and (3) of section 4 and shall not have effect except with the approval of the Central Government in writing:

Provided that no such approval shall be necessary where the only change in the name of the company is the deletion therefrom, or addition thereto, of the word "Private", consequent on the conversion of any one class of companies to another class in accordance with the provisions of this Act.

(3) When any change in the name of a company is made under sub-section (2), the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name and the change in the name shall be complete and effective only on the issue of such a certificate.

(4) The alteration of the memorandum relating to the place of the registered office from one State to another shall not have any effect unless it is approved by the Central Government on an application in such form and manner as may be prescribed.

(5) The Central Government shall dispose of the application under sub-section (4) within a period of sixty days and before passing its order may satisfy itself that the alteration has the consent of the creditors, debenture-holders and other persons concerned with the company or that the sufficient provision has been made by the company either for the due discharge of all its debts and obligations or that adequate security has been provided for such discharge.

(6) Save as provided in section 64, a company shall, in relation to any alteration of its memorandum, file with the Registrar—

(a) the special resolution passed by the company under sub-section (1);

(b) the approval of the Central Government under sub-section (2), if the alteration involves any change in the name of the company.

(7) Where an alteration of the memorandum results in the transfer of the registered office of a company from one State to another, a certified copy of the order of the Central Government approving the alteration shall be filed by the company with the Registrar of each of the States within such time and in such manner as may be prescribed, who shall register the same, and the Registrar of the State where the registered office is being shifted to, shall issue a fresh certificate of incorporation indicating the alteration.

(8) A company, which has raised money from public through prospectus and still has any unutilised amount out of the money so raised, shall not change its objects for which it raised the money through prospectus unless a special resolution is passed by the company and—

(i) the details, as may be prescribed, in respect of such resolution shall also be published in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated and shall also be placed on the website of the company, if any, indicating therein the justification for such change;

(ii) the dissenting shareholders shall be given an opportunity to exit by the promoters and shareholders having control in accordance with regulations to be specified by the Securities and Exchange Board.

(9) The Registrar shall register any alteration of the memorandum with respect to the objects of the company and certify the registration within a period of thirty days from the date of filing of the special resolution in accordance with clause (a) of sub-section (6) of this section.

(10) No alteration made under this section shall have any effect until it has been registered in accordance with the provisions of this section.

(11) Any alteration of the memorandum, in the case of a company limited by guarantee and not having a share capital, purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member, shall be void.

Alteration of articles.

14. (1) Subject to the provisions of this Act and the conditions contained in its memorandum, if any, a company may, by a special resolution, alter its articles including alterations having the effect of conversion of—

(a) a private company into a public company; or

(b) a public company into a private company:

Provided that where a company being a private company alters its articles in such a manner that they no longer include the restrictions and limitations which are required to be included in the articles of a private company under this Act, the company shall, as from the date of such alteration, cease to be a private company:

Provided further that any alteration having the effect of conversion of a public company into a private company shall not take effect except with the approval of the Tribunal which shall make such order as it may deem fit.

(2) Every alteration of the articles under this section and a copy of the order of the Tribunal approving the alteration as per sub-section (1) shall be filed with the Registrar, together with a printed copy of the altered articles, within a period of fifteen days in such manner as may be prescribed, who shall register the same.

(3) Any alteration of the articles registered under sub-section (2) shall, subject to the provisions of this Act, be valid as if it were originally in the articles.

Alteration of memorandum or articles to be noted in every copy.

15. (1) Every alteration made in the memorandum or articles of a company shall be noted in every copy of the memorandum or articles, as the case may be.

(2) If a company makes any default in complying with the provisions of sub-section (1), the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every copy of the memorandum or articles issued without such alteration.

Rectification of name of company.

16. (1) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which,—

(a) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(b) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999, made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this

Act or any previous company law, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of six months from the issue of such direction, after adopting an ordinary resolution for the purpose.

(2) Where a company changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to the Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and the memorandum.

(3) If a company makes default in complying with any direction given under sub-section (1), the company shall be punishable with fine of one thousand rupees for every day during which the default continues and every officer who is in default shall be punishable with fine which shall not be less than five thousand rupees but which may extend to one lakh rupees:

17. (1) A company shall, on being so requested by a member, send to him within seven days of the request and subject to the payment of such fees as may be prescribed, a copy of each of the following documents; namely:—

Copies of memorandum, articles, etc., to be given to members.

(a) the memorandum;

(b) the articles; and

(c) every agreement and every resolution referred to in sub-section (1) of section 117, if and in so far as they have not been embodied in the memorandum or articles.

(2) If a company makes any default in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable for each default, to a penalty of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

18. (1) A company of any class registered under this Act may convert itself as a company of other class under this Act by alteration of memorandum and articles of the company in accordance with the provisions of this Chapter.

Conversion of companies already registered.

(2) Where the conversion is required to be done under this section, the Registrar shall on an application made by the company, after satisfying himself that the provisions of this Chapter applicable for registration of companies have been complied with, close the former registration of the company and after registering the documents referred to in sub-section (1), issue a certificate of incorporation in the same manner as its first registration.

(3) The registration of a company under this section shall not affect any debts, liabilities, obligations or contracts incurred or entered into, by or on behalf of the company before conversion and such debts, liabilities, obligations and contracts may be enforced in the manner as if such registration had not been done.

19. (1) No company shall, either by itself or through its nominees, hold any shares in its holding company and no holding company shall allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be void:

Subsidiary company not to hold shares in its holding company.

Provided that nothing in this sub-section shall apply to a case—

(a) where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or

(b) where the subsidiary company holds such shares as a trustee; or

(c) where the subsidiary company is a shareholder even before it became a subsidiary company of the holding company:

Provided further that the subsidiary company referred to in the preceding proviso shall have a right to vote at a meeting of the holding company only in respect of the shares held by it as a legal representative or as a trustee, as referred to in clause (a) or clause (b) of the said proviso.

(2) The reference in this section to the shares of a holding company which is a company limited by guarantee or an unlimited company, not having a share capital, shall be construed as a reference to the interest of its members, whatever be the form of interest.

Service of documents.

20. (1) A document may be served on a company or an officer thereof by sending it to the company or the officer at the registered office of the company by registered post or by speed post or by courier service or by leaving it at its registered office or by means of such electronic or other mode as may be prescribed:

Provided that where securities are held with a depository, the records of the beneficial ownership may be served by such depository on the company by means of electronic or other mode.

(2) Save as provided in this Act or the rules made thereunder for filing of documents with the Registrar in electronic mode, a document may be served on Registrar or any member by sending it to him by post or by registered post or by speed post or by courier or by delivering at his office or address, or by such electronic or other mode as may be prescribed:

Provided that a member may request for delivery of any document through a particular mode, for which he shall pay such fees as may be determined by the company in its annual general meeting.

Explanation.—For the purposes of this section, the term “courier” means a person or agency which delivers the document and provides proof of its delivery.

Authenticat-
ion of
documents,
proceedings
and contracts.

21. Save as otherwise provided in this Act,—

(a) a document or proceeding requiring authentication by a company; or

(b) contracts made by or on behalf of a company,

may be signed by any key managerial personnel or an officer of the company duly authorised by the Board in this behalf.

Execution of
bills of
exchange, etc.

22. (1) A bill of exchange, *hundi* or promissory note shall be deemed to have been made, accepted, drawn or endorsed on behalf of a company if made, accepted, drawn, or endorsed in the name of, or on behalf of or on account of, the company by any person acting under its authority, express or implied.

(2) A company may, by writing under its common seal, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India.

(3) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the effect as if it were made under its common seal.

CHAPTER III

PROSPECTUS AND ALLOTMENT OF SECURITIES

PART I.—Public offer

23. (1) A public company may issue securities—

Public offer
and private
placement.

(a) to public through prospectus (herein referred to as "public offer") by complying with the provisions of this Part; or

(b) through private placement by complying with the provisions of Part II of this Chapter; or

(c) through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 and the rules and regulations made thereunder.

15 of 1992.

(2) A private company may issue securities—

(a) by way of rights issue or bonus issue in accordance with the provisions of this Act; or

(b) through private placement by complying with the provisions of Part II of this Chapter.

Explanation.—For the purposes of this Chapter, "public offer" includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus.

24. (1) The provisions contained in this Chapter, Chapter IV and in section 127 shall,—

Power of
Securities and
Exchange
Board to
regulate issue
and transfer
of securities,
etc.

(a) in so far as they relate to —

(i) issue and transfer of securities; and

(ii) non-payment of dividend,

by listed companies or those companies which intend to get their securities listed on any recognised stock exchange in India, except as provided under this Act, be administered by the Securities and Exchange Board by making regulations in this behalf;

(b) in any other case, be administered by the Central Government.

Explanation.—For the removal of doubts, it is hereby declared that all powers relating to all other matters relating to prospectus, return of allotment, redemption of preference shares and any other matter specifically provided in this Act, shall be exercised by the Central Government, the Tribunal or the Registrar, as the case may be.

(2) The Securities and Exchange Board shall, in respect of matters specified in sub-section (1) and the matters delegated to it under proviso to sub-section (1) of section 458, exercise the powers conferred upon it under sub-sections (1), (2A), (3) and (4) of section 11, sections 11A, 11B and 11D of the Securities and Exchange Board of India Act, 1992.

15 of 1992.

25. (1) Where a company allots or agrees to allot any securities of the company with a view to all or any of those securities being offered for sale to the public, any document by which the offer for sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company; and all enactments and rules of law as to the contents of prospectus and as to liability in respect of mis-statements, in and omissions from, prospectus, or otherwise relating to prospectus, shall apply with the modifications specified in sub-sections (3) and (4) and shall have effect accordingly, as if the securities had been offered to the public for subscription and as if persons accepting the offer in respect of any securities were subscribers for those securities, but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

Document
containing
offer of
securities for
sale to be
deemed
prospectus.

(2) For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, securities was made with a view to the securities being offered for sale to the public if it is shown--

(a) that an offer of the securities or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or

(b) that at the date when the offer was made, the whole consideration to be received by the company in respect of the securities had not been received by it.

(3) Section 26 as applied by this section shall have effect as if—

(i) it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus—

(a) the net amount of the consideration received or to be received by the company in respect of the securities to which the offer relates; and

(b) the time and place at which the contract where under the said securities have been or are to be allotted may be inspected;

(ii) the persons making the offer were persons named in a prospectus as directors of a company.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document referred to in sub-section (1) is signed on behalf of the company or firm by two directors of the company or by not less than one-half of the partners in the firm, as the case may be.

Matters to be stated in prospectus.

26. (1) Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall—

(a) state the following information, namely:—

(i) names and addresses of the registered office of the company, company secretary, Chief Financial Officer, auditors, legal advisers, bankers, trustees, if any, underwriters and such other persons as may be prescribed;

(ii) dates of the opening and closing of the issue, and declaration about the issue of allotment letters and refunds within the prescribed time;

(iii) a statement by the Board of Directors about the separate bank account where all monies received out of the issue are to be transferred and disclosure of details of all monies including utilised and unutilised monies out of the previous issue in the prescribed manner;

(iv) details about underwriting of the issue;

(v) consent of the directors, auditors, bankers to the issue, expert's opinion, if any, and of such other persons, as may be prescribed;

(vi) the authority for the issue and the details of the resolution passed therefor;

(vii) procedure and time schedule for allotment and issue of securities;

(viii) capital structure of the company in the prescribed manner;

(ix) main objects of public offer, terms of the present issue and such other particulars as may be prescribed;

(x) main objects and present business of the company and its location, schedule of implementation of the project;

(xi) particulars relating to—

(A) management perception of risk factors specific to the project;

(B) gestation period of the project;

(C) extent of progress made in the project;

(D) deadlines for completion of the project; and

(E) any litigation or legal action pending or taken by a Government Department or a statutory body during the last five years immediately preceding the year of the issue of prospectus against the promoter of the company;

(xii) minimum subscription, amount payable by way of premium, issue of shares otherwise than on cash;

(xiii) details of directors including their appointments and remuneration, and such particulars of the nature and extent of their interests in the company as may be prescribed; and

(xiv) disclosures in such manner as may be prescribed about sources of promoter's contribution;

(b) set out the following reports for the purposes of the financial information, namely:—

(i) reports by the auditors of the company with respect to its profits and losses and assets and liabilities and such other matters as may be prescribed;

(ii) reports relating to profits and losses for each of the five financial years immediately preceding the financial year of the issue of prospectus including such reports of its subsidiaries and in such manner as may be prescribed;

Provided that in case of a company with respect to which a period of five years has not elapsed from the date of incorporation, the prospectus shall set out in such manner as may be prescribed, the reports relating to profits and losses for each of the financial years immediately preceding the financial year of the issue of prospectus including such reports of its subsidiaries;

(iii) reports made in the prescribed manner by the auditors upon the profits and losses of the business of the company for each of the five financial years immediately preceding issue and assets and liabilities of its business on the last date to which the accounts of the business were made up, being a date not more than one hundred and eighty days before the issue of the prospectus:

Provided that in case of a company with respect to which a period of five years has not elapsed from the date of incorporation, the prospectus shall set out in the prescribed manner, the reports made by the auditors upon the profits and losses of the business of the company for all financial years from the date of its incorporation, and assets and liabilities of its business on the last date before the issue of prospectus; and

(iv) reports about the business or transaction to which the proceeds of the securities are to be applied directly or indirectly;

(c) make a declaration about the compliance of the provisions of this Act and a statement to the effect that nothing in the prospectus is contrary to the provisions of this Act, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 and the rules and regulations made thereunder; and

42 of 1956.

15 of 1992.

(d) state such other matters and set out such other reports, as may be prescribed.

(2) Nothing in sub-section (1) shall apply—

(a) to the issue to existing members or debenture-holders of a company, of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant has a right to renounce the shares or not under sub-clause (ii) of clause (a) of sub-section (1) of section 62 in favour of any other person; or

(b) to the issue of a prospectus or form of application relating to shares or debentures which are, or are to be, in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a recognised stock exchange.

(3) Subject to sub-section (2), the provisions of sub-section (1) shall apply to a prospectus or a form of application, whether issued on or with reference to the formation of a company or subsequently.

Explanation.—The date indicated in the prospectus shall be deemed to be the date of its publication.

(4) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for registration, a copy thereof signed by every person who is named therein as a director or proposed director of the company or by his duly authorised attorney.

(5) A prospectus issued under sub-section (1) shall not include a statement purporting to be made by an expert unless the expert is a person who is not, and has not been, engaged or interested in the formation or promotion or management, of the company and has given his written consent to the issue of the prospectus and has not withdrawn such consent before the delivery of a copy of the prospectus to the Registrar for registration and a statement to that effect shall be included in the prospectus.

(6) Every prospectus issued under sub-section (1) shall, on the face of it,—

(a) state that a copy has been delivered for registration to the Registrar as required under sub-section (4); and

(b) specify any documents required by this section to be attached to the copy so delivered or refer to statements included in the prospectus which specify these documents.

(7) The Registrar shall not register a prospectus unless the requirements of this section with respect to its registration are complied with and the prospectus is accompanied by the consent in writing of all the persons named in the prospectus.

(8) No prospectus shall be valid if it is issued more than ninety days after the date on which a copy thereof is delivered to the Registrar under sub-section (4).

(9) If a prospectus is issued in contravention of the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees and every person who is knowingly a party to the issue of such prospectus shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees, or with both.

27. (1) A company shall not, at any time, vary the terms of a contract referred to in the prospectus or objects for which the prospectus was issued, except subject to the approval of, or except subject to an authority given by the company in general meeting by way of special resolution:

Variation in terms of contract or objects in prospectus.

Provided that the details, as may be prescribed, of the notice in respect of such resolution to shareholders, shall also be published in the newspapers (one in English and one in vernacular language) in the city where the registered office of the company is situated indicating clearly the justification for such variation:

Provided further that such company shall not use any amount raised by it through prospectus for buying, trading or otherwise dealing in equity shares of any other listed company.

(2) The dissenting shareholders being those shareholders who have not agreed to the proposal to vary the terms of contracts or objects referred to in the prospectus, shall be given an exit offer by promoters or controlling shareholders at such exit price, and in such manner and conditions as may be specified by the Securities and Exchange Board by making regulations in this behalf.

28. (1) Where certain members of a company propose, in consultation with the Board of Directors to offer, in accordance with the provisions of any law for the time being in force, whole or part of their holding of shares to the public, they may do so in accordance with such procedure as may be prescribed.

Offer of sale of shares by certain members of company.

(2) Any document by which the offer of sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company and all laws and rules made thereunder as to the contents of the prospectus and as to liability in respect of mis-statements in and omission from prospectus or otherwise relating to prospectus shall apply as if this is a prospectus issued by the company.

(3) The members, whether individuals or bodies corporate or both, whose shares are proposed to be offered to the public, shall collectively authorise the company, whose shares are offered for sale to the public, to take all actions in respect of offer of sale for and on their behalf and they shall reimburse the company all expenses incurred by it on this matter.

Public offer of securities to be in dematerialised form.

29. (1) Notwithstanding anything contained in any other provisions of this Act,—

(a) every company making public offer; and

(b) such other class or classes of public companies as may be prescribed,

shall issue the securities only in dematerialised form by complying with the provisions of the Depositories Act, 1996 and the regulations made thereunder.

22 of 1996.

(2) Any company, other than a company mentioned in sub-section (1), may convert its securities into dematerialised form or issue its securities in physical form in accordance with the provisions of this Act or in dematerialised form in accordance with the provisions of the Depositories Act, 1996 and the regulations made thereunder.

22 of 1996.

Advertisement of prospectus.

30. Where an advertisement of any prospectus of a company is published in any manner, it shall be necessary to specify therein the contents of its memorandum as regards the objects, the liability of members and the amount of share capital of the company, and the names of the signatories to the memorandum and the number of shares subscribed for by them, and its capital structure.

Shelf prospectus.

31. (1) Any class or classes of companies, as the Securities and Exchange Board may provide by regulations in this behalf, may file a shelf prospectus with the Registrar at the stage of the first offer of securities included therein which shall indicate a period not exceeding one year as the period of validity of such prospectus which shall commence from the date of opening of the first offer of securities under that prospectus, and in respect of a second or subsequent offer of such securities issued during the period of validity of that prospectus, no further prospectus is required.

(2) A company filing a shelf prospectus shall be required to file an information memorandum containing all material facts relating to new charges created, changes in the financial position of the company as have occurred between the first offer of securities or the previous offer of securities and the succeeding offer of securities and such other changes as may be prescribed, with the Registrar within the prescribed time, prior to the issue of a second or subsequent offer of securities under the shelf prospectus:

Provided that where a company or any other person has received applications for the allotment of securities along with advance payments of subscription before the making of any such change, the company or other person shall intimate the changes to such applicants and if they express a desire to withdraw their application, the company or other person shall refund all the monies received as subscription within fifteen days thereof.

(3) Where an information memorandum is filed, every time an offer of securities is made under sub-section (2), such memorandum together with the shelf prospectus shall be deemed to be a prospectus.

Explanation.—For the purposes of this section, the expression "shelf prospectus" means a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus.

Red herring prospectus.

32. (1) A company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus.

(2) A company proposing to issue a red herring prospectus under sub-section (1) shall file it with the Registrar at least three days prior to the opening of the subscription list and the offer.

(3) A red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus.

(4) Upon the closing of the offer of securities under this section, the prospectus stating therein the total capital raised, whether by way of debt or share capital, and the closing price of the securities and any other details as are not included in the red herring prospectus shall be filed with the Registrar and the Securities and Exchange Board.

Explanation.—For the purposes of this section, the expression "red herring prospectus" means a prospectus which does not include complete particulars of the quantum or price of the securities included therein.

33. (1) No form of application for the purchase of any of the securities of a company shall be issued unless such form is accompanied by an abridged prospectus:

Issue of application forms for securities.

Provided that nothing in this sub-section shall apply if it is shown that the form of application was issued—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to such securities; or

(b) in relation to securities which were not offered to the public.

(2) A copy of the prospectus shall, on a request being made by any person before the closing of the subscription list and the offer, be furnished to him.

(3) If a company makes any default in complying with the provisions of this section, it shall be liable to a penalty of fifty thousand rupees for each default.

34. Where a prospectus, issued, circulated or distributed under this Chapter, includes any statement which is untrue or misleading in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead, every person who authorises the issue of such prospectus shall be liable under section 447:

Criminal liability for mis-statements in prospectus.

Provided that nothing in this section shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary.

35. (1) Where a person has subscribed for securities of a company acting on any statement included, or the inclusion or omission of any matter, in the prospectus which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person who—

Civil liability for mis-statements in prospectus.

(a) is a director of the company at the time of the issue of the prospectus;

(b) has authorised himself to be named and is named in the prospectus as a director of the company, or has agreed to become such director, either immediately or after an interval of time;

(c) is a promoter of the company;

(d) has authorised the issue of the prospectus; and

(e) is an expert referred to in sub-section (5) of section 26,

shall, without prejudice to any punishment to which any person may be liable under section 36, be liable to pay compensation to every person who has sustained such loss or damage.

(2) No person shall be liable under sub-section (1), if he proves—

(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent.

(3) Notwithstanding anything contained in this section, where it is proved that a prospectus has been issued with intent to defraud the applicants for the securities of a company or any other person or for any fraudulent purpose, every person referred to in sub-section (1) shall be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by any person who subscribed to the securities on the basis of such prospectus.

Punishment
for
fraudulently
inducing
persons to
invest money.

36. Any person who, either knowingly or recklessly makes any statement, promise or forecast which is false, deceptive or misleading, or deliberately conceals any material facts, to induce another person to enter into, or to offer to enter into,—

(a) any agreement for, or with a view to, acquiring, disposing of, subscribing for, or underwriting securities; or

(b) any agreement, the purpose or the pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities; or

(c) any agreement for, or with a view to obtaining credit facilities from any bank or financial institution,

shall be liable for action under section 447.

Action by
affected
persons.

37. A suit may be filed or any other action may be taken under section 34 or section 35 or section 36 by any person, group of persons or any association of persons affected by any misleading statement or the inclusion or omission of any matter in the prospectus.

Punishment
for person-
ation for
acquisition,
etc., of
securities.

38. (1) Any person who—

(a) makes or abets making of an application in a fictitious name to a company for acquiring, or subscribing for, its securities; or

(b) makes or abets making of multiple applications to a company in different names or in different combinations of his name or surname for acquiring or subscribing for its securities; or

(c) otherwise induces directly or indirectly a company to allot, or register any transfer of, securities to him, or to any other person in a fictitious name,

shall be liable for action under section 447.

(2) The provisions of sub-section (1) shall be prominently reproduced in every prospectus issued by a company and in every form of application for securities.

(3) Where a person has been convicted under this section, the Court may also order disgorgement of gain, if any, made by, and seizure and disposal of the securities in possession of, such person.

(4) The amount received through disgorgement or disposal of securities under sub-section (3) shall be credited to the Investor Education and Protection Fund.

Allotment of
securities by
company.

39. (1) No allotment of any securities of a company offered to the public for subscription shall be made unless the amount stated in the prospectus as the minimum amount has been subscribed and the sums payable on application for the amount so stated have been paid to and received by the company by cheque or other instrument.

(2) The amount payable on application on every security shall not be less than five per cent. of the nominal amount of the security or such other percentage or amount, as may be specified by the Securities and Exchange Board by making regulations in this behalf.

(3) If the stated minimum amount has not been subscribed and the sum payable on application is not received within a period of thirty days from the date of issue of the prospectus, or such other period as may be specified by the Securities and Exchange Board, the amount received under sub-section (1) shall be returned within such time and manner as may be prescribed.

(4) Whenever a company having a share capital makes any allotment of securities, it shall file with the Registrar a return of allotment in such manner as may be prescribed.

(5) In case of any default under sub-section (3) or sub-section (4), the company and its officer who is in default shall be liable to a penalty, for each default, of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

40. (1) Every company making public offer shall, before making such offer, make an application to one or more recognised stock exchange or exchanges and obtain permission for the securities to be dealt with in such stock exchange or exchanges.

Securities to be dealt with in stock exchanges.

(2) Where a prospectus states that an application under sub-section (1) has been made, such prospectus shall also state the name or names of the stock exchange in which the securities shall be dealt with.

(3) All monies received on application from the public for subscription to the securities shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—

(a) for adjustment against allotment of securities where the securities have been permitted to be dealt with in the stock exchange or stock exchanges specified in the prospectus; or

(b) for the repayment of monies within the time specified by the Securities and Exchange Board, received from applicants in pursuance of the prospectus, where the company is for any other reason unable to allot securities.

(4) Any condition purporting to require or bind any applicant for securities to waive compliance with any of the requirements of this section shall be void.

(5) If a default is made in complying with the provisions of this section, the company shall be punishable with a fine which shall not be less than five lakh rupees but which may extend to fifty lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees, or with both.

(6) A company may pay commission to any person in connection with the subscription to its securities subject to such conditions as may be prescribed.

41. A company may, after passing a special resolution in its general meeting, issue depository receipts in any foreign country in such manner, and subject to such conditions, as may be prescribed.

Global depository receipt.

PART II.—*Private placement*

Offer or invitation for subscription of securities on private placement.

42. (1) Without prejudice to the provisions of section 26, a company may, subject to the provisions of this section, make private placement through issue of a private placement offer letter.

(2) Subject to sub-section (1), the offer of securities or invitation to subscribe securities, shall be made to such number of persons not exceeding fifty or such higher number as may be prescribed, [excluding qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62], in a financial year and on such conditions (including the form and manner of private placement) as may be prescribed.

Explanation I.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.

Explanation II.— For the purposes of this section, the expression—

(i) "qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 as amended from time to time.

(ii) "private placement" means any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in this section.

(3) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company.

(4) Any offer or invitation not in compliance with the provisions of this section shall be treated as a public offer and all provisions of this Act, and the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 shall be required to be complied with.

42 of 1956.
15 of 1992.

(5) All monies payable towards subscription of securities under this section shall be paid through cheque or demand draft or other banking channels but not by cash.

(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the date of completion of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent. per annum from the expiry of the sixtieth day:

Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—

(a) for adjustment against allotment of securities; or

(b) for the repayment of monies where the company is unable to allot securities.

(7) All offers covered under this section shall be made only to such persons whose names are recorded by the company prior to the invitation to subscribe, and that such persons shall receive the offer by name, and that a complete record of such offers shall be kept by the company in such manner as may be prescribed and complete information about such offer shall be filed with the Registrar within a period of thirty days of circulation of relevant private placement offer letter.

(8) No company offering securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an offer.

(9) Whenever a company makes any allotment of securities under this section, it shall file with the Registrar a return of allotment in such manner as may be prescribed, including the complete list of all security-holders, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.

(10) If a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount involved in the offer or invitation or two crore rupees, whichever is higher, and the company shall also refund all monies to subscribers within a period of thirty days of the order imposing the penalty.

CHAPTER IV

SHARE CAPITAL AND DEBENTURES

43. The share capital of a company limited by shares shall be of two kinds, namely:—

Kinds of
share capital.

(a) equity share capital—

(i) with voting rights; or

(ii) with differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed; and

(b) preference share capital:

Provided that nothing contained in this Act shall affect the rights of the preference shareholders who are entitled to participate in the proceeds of winding up before the commencement of this Act.

Explanation.—For the purposes of this section,—

(i) “equity share capital”, with reference to any company limited by shares, means all share capital which is not preference share capital;

(ii) “preference share capital”, with reference to any company limited by shares, means that part of the issued share capital of the company which carries or would carry a preferential right with respect to—

(a) payment of dividend, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and

(b) repayment, in the case of a winding up or repayment of capital, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company;

(iii) capital shall be deemed to be preference capital, notwithstanding that it is entitled to either or both of the following rights, namely:—

(a) that in respect of dividends, in addition to the preferential rights to the amounts specified in sub-clause (a) of clause (ii), it has a right to participate, whether fully or to a limited extent, with capital not entitled to the preferential right aforesaid;

(b) that in respect of capital, in addition to the preferential right to the repayment, on a winding up, of the amounts specified in sub-clause (b) of clause (ii), it has a right to participate, whether fully or to a limited extent, with capital not entitled to that preferential right in any surplus which may remain after the entire capital has been repaid.

Nature of shares or debentures.	44. The shares or debentures or other interest of any member in a company shall be movable property transferable in the manner provided by the articles of the company.
Numbering of shares.	45. Every share in a company having a share capital shall be distinguished by its distinctive number: Provided that nothing in this section shall apply to a share held by a person whose name is entered as holder of beneficial interest in such share in the records of a depository.
Certificate of shares.	46. (1) A certificate, issued under the common seal of the company, specifying the shares held by any person, shall be <i>prima facie</i> evidence of the title of the person to such shares. (2) A duplicate certificate of shares may be issued, if such certificate — (a) is proved to have been lost or destroyed; or (b) has been defaced, mutilated or torn and is surrendered to the company. (3) Notwithstanding anything contained in the articles of a company, the manner of issue of a certificate of shares or the duplicate thereof, the form of such certificate, the particulars to be entered in the register of members and other matters shall be such as may be prescribed. (4) Where a share is held in depository form, the record of the depository is the <i>prima facie</i> evidence of the interest of the beneficial owner. (5) If a company with intent to defraud issues a duplicate certificate of shares, the company shall be punishable with fine which shall not be less than five times the face value of the shares involved in the issue of the duplicate certificate but which may extend to ten times the face value of such shares or rupees ten crores whichever is higher and every officer of the company who is in default shall be liable for action under section 447.
Voting rights.	47. (1) Subject to the provisions of section 43 and sub-section (2) of section 50,— (a) every member of a company limited by shares and holding equity share capital therein, shall have a right to vote on every resolution placed before the company; and (b) his voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company. (2) Every member of a company limited by shares and holding any preference share capital therein shall, in respect of such capital, have a right to vote only on resolutions placed before the company which directly affect the rights attached to his preference shares and, any resolution for the winding up of the company or for the repayment or reduction of its equity or preference share capital and his voting right on a poll shall be in proportion to his share in the paid-up preference share capital of the company: Provided that the proportion of the voting rights of equity shareholders to the voting rights of the preference shareholders shall be in the same proportion as the paid-up capital in respect of the equity shares bears to the paid-up capital in respect of the preference shares: Provided further that where the dividend in respect of a class of preference shares has not been paid for a period of two years or more, such class of preference shareholders shall have a right to vote on all the resolutions placed before the company.

48. (1) Where a share capital of the company is divided into different classes of shares, the rights attached to the shares of any class may be varied with the consent in writing of the holders of not less than three-fourths of the issued shares of that class or by means of a special resolution passed at a separate meeting of the holders of the issued shares of that class,—

Variation of shareholders' rights.

(a) if provision with respect to such variation is contained in the memorandum or articles of the company; or

(b) in the absence of any such provision in the memorandum or articles, if such variation is not prohibited by the terms of issue of the shares of that class:

Provided that if variation by one class of shareholders affects the rights of any other class of shareholders, the consent of three-fourths of such other class of shareholders shall also be obtained and the provisions of this section shall apply to such variation.

(2) Where the holders of not less than ten per cent. of the issued shares of a class did not consent to such variation or vote in favour of the special resolution for the variation, they may apply to the Tribunal to have the variation cancelled, and where any such application is made, the variation shall not have effect unless and until it is confirmed by the Tribunal:

Provided that an application under this section shall be made within twenty-one days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) The decision of the Tribunal on any application under sub-section (2) shall be binding on the shareholders.

(4) The company shall, within thirty days of the date of the order of the Tribunal, file a copy thereof with the Registrar.

(5) Where any default is made in complying with the provisions of this section, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

49. Where any calls for further share capital are made on the shares of a class, such calls shall be made on a uniform basis on all shares falling under that class.

Calls on shares of same class to be made on uniform basis.

Explanation.—For the purposes of this section, shares of the same nominal value on which different amounts have been paid-up shall not be deemed to fall under the same class.

50. (1) A company may, if so authorised by its articles, accept from any member, the whole or a part of the amount remaining unpaid on any shares held by him, even if no part of that amount has been called up.

Company to accept unpaid share capital, although not called up.

(2) A member of the company limited by shares shall not be entitled to any voting rights in respect of the amount paid by him under sub-section (1) until that amount has been called up.

51. A company may, if so authorised by its articles, pay dividends in proportion to the amount paid-up on each share.

Payment of dividend in proportion to amount paid-up.

52. (1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount of the premium received on those shares shall be transferred to a "securities premium account" and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the securities premium account were the paid-up share capital of the company.

Application of premiums received on issue of shares.

(2) Notwithstanding anything contained in sub-section (1), the securities premium account may be applied by the company—

(a) towards the issue of unissued shares of the company to the members of the company as fully paid bonus shares;

(b) in writing off the preliminary expenses of the company;

(c) in writing off the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;

(d) in providing for the premium payable on the redemption of any redeemable preference shares or of any debentures of the company; or

(e) for the purchase of its own shares or other securities under section 68.

(3) The securities premium account may, notwithstanding anything contained in sub-sections (1) and (2), be applied by such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133,—

(a) in paying up unissued equity shares of the company to be issued to members of the company as fully paid bonus shares; or

(b) in writing off the expenses of or the commission paid or discount allowed on any issue of equity shares of the company; or

(c) for the purchase of its own shares or other securities under section 68.

Prohibition
on issue of
shares at
discount.

53. (1) Except as provided in section 54, a company shall not issue shares at a discount.

(2) Any share issued by a company at a discounted price shall be void.

(3) Where a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

Issue of sweat
equity shares.

54. (1) Notwithstanding anything contained in section 53, a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely:—

(a) the issue is authorised by a special resolution passed by the company;

(b) the resolution specifies the number of shares, the current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;

(c) not less than one year has, at the date of such issue, elapsed since the date on which the company had commenced business; and

(d) where the equity shares of the company are listed on a recognised stock exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as may be prescribed.

(2) The rights, limitations, restrictions and provisions as are for the time being applicable to equity shares shall be applicable to the sweat equity shares issued under this section and the holders of such shares shall rank *pari passu* with other equity shareholders.

Issue and
redemption
of preference
shares.

55. (1) No company limited by shares shall, after the commencement of this Act, issue any preference shares which are irredeemable.

(2) A company limited by shares may, if so authorised by its articles, issue preference shares which are liable to be redeemed within a period not exceeding twenty years from the date of their issue subject to such conditions as may be prescribed:

Provided that a company may issue preference shares for a period exceeding twenty years for infrastructure projects, subject to the redemption of such percentage of shares as may be prescribed on an annual basis at the option of such preferential shareholders:

Provided further that—

(a) no such shares shall be redeemed except out of the profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of such redemption;

(b) no such shares shall be redeemed unless they are fully paid;

(c) where such shares are proposed to be redeemed out of the profits of the company, there shall, out of such profits, be transferred, a sum equal to the nominal amount of the shares to be redeemed, to a reserve, to be called the Capital Redemption Reserve Account, and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the Capital Redemption Reserve Account were paid-up share capital of the company; and

(d) (i) in case of such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133, the premium, if any, payable on redemption shall be provided for out of the profits of the company, before the shares are redeemed:

Provided also that premium, if any, payable on redemption of any preference shares issued on or before the commencement of this Act by any such company shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(ii) in a case not falling under sub-clause (i) above, the premium, if any, payable on redemption shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(3) Where a company is not in a position to redeem any preference shares or to pay dividend, if any, on such shares in accordance with the terms of issue (such shares hereinafter referred to as unredeemed preference shares), it may, with the consent of the holders of three-fourths in value of such preference shares and with the approval of the Tribunal on a petition made by it in this behalf, issue further redeemable preference shares equal to the amount due, including the dividend thereon, in respect of the unredeemed preference shares, and on the issue of such further redeemable preference shares, the unredeemed preference shares shall be deemed to have been redeemed:

Provided that the Tribunal shall, while giving approval under this sub-section, order the redemption forthwith of preference shares held by such persons who have not consented to the issue of further redeemable preference shares.

Explanation.—For the removal of doubts, it is hereby declared that the issue of further redeemable preference shares or the redemption of preference shares under this section shall not be deemed to be an increase or, as the case may be, a reduction, in the share capital of the company.

(4) The capital redemption reserve account may, notwithstanding anything in this section, be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Explanation.—For the purposes of sub-section (2), the term “infrastructure projects” means the infrastructure projects specified in Schedule VI.

56. (1) A company shall not register a transfer of securities of the company, or the interest of a member in the company in the case of a company having no share capital, other than the transfer between persons both of whose names are entered as holders of beneficial interest in the records of a depository, unless a proper instrument of transfer, in such form as

Transfer and
transmission
of securities.

may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities:

Provided that where the instrument of transfer has been lost or the instrument of transfer has not been delivered within the prescribed period, the company may register the transfer on such terms as to indemnity as the Board may think fit.

(2) Nothing in sub-section (1) shall prejudice the power of the company to register, on receipt of an intimation of transmission of any right to securities by operation of law from any person to whom such right has been transmitted.

(3) Where an application is made by the transferor alone and relates to partly paid shares, the transfer shall not be registered, unless the company gives the notice of the application, in such manner as may be prescribed, to the transferee and the transferee gives no objection to the transfer within two weeks from the receipt of notice.

(4) Every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted—

(a) within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;

(b) within a period of two months from the date of allotment, in the case of any allotment of any of its shares;

(c) within a period of one month from the date of receipt by the company of the instrument of transfer under sub-section (1) or, as the case may be, of the intimation of transmission under sub-section (2), in the case of a transfer or transmission of securities;

(d) within a period of six months from the date of allotment in the case of any allotment of debenture:

Provided that where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.

(5) The transfer of any security or other interest of a deceased person in a company made by his legal representative shall, even if the legal representative is not a holder thereof, be valid as if he had been the holder at the time of the execution of the instrument of transfer.

(6) Where any default is made in complying with the provisions of sub-sections (1) to (5), the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(7) Without prejudice to any liability under the Depositories Act, 1996, where any depository or depository participant, with an intention to defraud a person, has transferred shares, it shall be liable under section 447. 22 of 1996.

Punishment
for person-
ation of
shareholder.

57. If any person deceitfully personates as an owner of any security or interest in a company, or of any share warrant or coupon issued in pursuance of this Act, and thereby obtains or attempts to obtain any such security or interest or any such share warrant or coupon, or receives or attempts to receive any money due to any such owner, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

58. (1) If a private company limited by shares refuses, whether in pursuance of any power of the company under its articles or otherwise, to register the transfer of, or the transmission by operation of law of the right to, any securities or interest of a member in the company, it shall within a period of thirty days from the date on which the instrument of transfer, or the intimation of such transmission, as the case may be, was delivered to the company, send notice of the refusal to the transferor and the transferee or to the person giving intimation of such transmission, as the case may be, giving reasons for such refusal.

Refusal of registration and appeal against refusal.

(2) Without prejudice to sub-section (1), the securities or other interest of any member in a public company shall be freely transferable:

Provided that any contract or arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract.

(3) The transferee may appeal to the Tribunal against the refusal within a period of thirty days from the date of receipt of the notice or in case no notice has been sent by the company, within a period of sixty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, was delivered to the company.

(4) If a public company without sufficient cause refuses to register the transfer of securities within a period of thirty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, is delivered to the company, the transferee may, within a period of sixty days of such refusal or where no intimation has been received from the company, within ninety days of the delivery of the instrument of transfer or intimation of transmission, appeal to the Tribunal.

(5) The Tribunal, while dealing with an appeal made under sub-section (3) or sub-section (4), may, after hearing the parties, either dismiss the appeal, or by order—

(a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within a period of ten days of the receipt of the order; or

(b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved.

(6) If a person contravenes the order of the Tribunal under this section, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

59. (1) If the name of any person is, without sufficient cause, entered in the register of members of a company, or after having been entered in the register, is, without sufficient cause, omitted therefrom, or if a default is made, or unnecessary delay takes place in entering in the register, the fact of any person having become or ceased to be a member, the person aggrieved, or any member of the company, or the company may appeal in such form as may be prescribed, to the Tribunal, or to a competent court outside India, specified by the Central Government by notification, in respect of foreign members or debenture holders residing outside India, for rectification of the register.

Rectification of register of members.

(2) The Tribunal may, after hearing the parties to the appeal under sub-section (1) by order, either dismiss the appeal or direct that the transfer or transmission shall be registered by the company within a period of ten days of the receipt of the order or direct rectification of the records of the depository or the register and in the latter case, direct the company to pay damages, if any, sustained by the party aggrieved.

(3) The provisions of this section shall not restrict the right of a holder of securities, to transfer such securities and any person acquiring such securities shall be entitled to voting rights unless the voting rights have been suspended by an order of the Tribunal.

(4) Where the transfer of securities is in contravention of any of the provisions of the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 or this Act or any other law for the time being in force, the Tribunal may, on an application made by the depository, company, depository participant, the holder of the securities or the Securities and Exchange Board, direct any company or a depository to set right the contravention and rectify its register or records concerned.

(5) If any default is made in complying with the order of the Tribunal under this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.

Publication of authorised, subscribed and paid-up capital.

60. (1) Where any notice, advertisement or other official publication, or any business letter, billhead or letter paper of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication, or such letter, billhead or letter paper shall also contain a statement, in an equally prominent position and in equally conspicuous characters, of the amount of the capital which has been subscribed and the amount paid-up.

(2) If any default is made in complying with the requirements of sub-section (1), the company shall be liable to pay a penalty of ten thousand rupees and every officer of the company who is in default shall be liable to pay a penalty of five thousand rupees, for each default.

Power of limited company to alter its share capital.

61. (1) A limited company having a share capital may, if so authorised by its articles, alter its memorandum in its general meeting to—

(a) increase its authorised share capital by such amount as it thinks expedient;

(b) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares:

Provided that no consolidation and division which results in changes in the voting percentage of shareholders shall take effect unless it is approved by the Tribunal on an application made in the prescribed manner;

(c) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The cancellation of shares under sub-section (1) shall not be deemed to be a reduction of share capital.

Further issue of share capital.

62. (1) Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered—

(a) to persons who, at the date of the offer, are holders of equity shares of the company in proportion, as nearly as circumstances admit, to the paid-up share capital on those shares by sending a letter of offer subject to the following conditions, namely:—

(i) the offer shall be made by notice specifying the number of shares offered and limiting a time not being less than fifteen days and not exceeding thirty days from the date of the offer within which the offer, if not accepted, shall be deemed to have been declined;

(ii) unless the articles of the company otherwise provide, the offer aforesaid shall be deemed to include a right exercisable by the person concerned to renounce the shares offered to him or any of them in favour of any other person; and the notice referred to in clause (i) shall contain a statement of this right;

(iii) after the expiry of the time specified in the notice aforesaid, or on receipt of earlier intimation from the person to whom such notice is given that he declines to accept the shares offered, the Board of Directors may dispose of them in such manner which is not dis-advantageous to the shareholders and the company;

(b) to employees under a scheme of employees' stock option, subject to special resolution passed by company and subject to such conditions as may be prescribed; or

(c) to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) or clause (b), either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer subject to such conditions as may be prescribed.

(2) The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be despatched through registered post or speed post or through electronic mode to all the existing shareholders at least three days before the opening of the issue.

(3) Nothing in this section shall apply to the increase of the subscribed capital of a company caused by the exercise of an option as a term attached to the debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:

Provided that the terms of issue of such debentures or loan containing such an option have been approved before the issue of such debentures or the raising of loan by a special resolution passed by the company in general meeting.

(4) Notwithstanding anything contained in sub-section (3), where any debentures have been issued, or loan has been obtained from any Government by a company, and if that Government considers it necessary in the public interest so to do, it may, by order, direct that such debentures or loans or any part thereof shall be converted into shares in the company on such terms and conditions as appear to the Government to be reasonable in the circumstances of the case even if terms of the issue of such debentures or the raising of such loans do not include a term for providing for an option for such conversion:

Provided that where the terms and conditions of such conversion are not acceptable to the company, it may, within sixty days from the date of communication of such order, appeal to the Tribunal which shall after hearing the company and the Government pass such order as it deems fit.

(5) In determining the terms and conditions of conversion under sub-section (4), the Government shall have due regard to the financial position of the company, the terms of issue of debentures or loans, as the case may be, the rate of interest payable on such debentures or loans and such other matters as it may consider necessary.

(6) Where the Government has, by an order made under sub-section (4), directed that any debenture or loan or any part thereof shall be converted into shares in a company and where no appeal has been preferred to the Tribunal under sub-section (4) or where such appeal has been dismissed, the memorandum of such company shall, where such order has the effect of increasing the authorised share capital of the company, stand altered and the authorised share capital of such company shall stand increased by an amount equal to the amount of the value of shares which such debentures or loans or part thereof has been converted into.

63. (1) A company may issue fully paid-up bonus shares to its members, in any manner whatsoever, out of—

Issue of bonus shares.

(i) its free reserves;

(ii) the securities premium account; or

(iii) the capital redemption reserve account:

Provided that no issue of bonus shares shall be made by capitalising reserves created by the revaluation of assets.

(2) No company shall capitalise its profits or reserves for the purpose of issuing fully paid-up bonus shares under sub-section (1), unless—

(a) it is authorised by its articles;

(b) it has, on the recommendation of the Board, been authorised in the general meeting of the company;

(c) it has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it;

(d) it has not defaulted in respect of the payment of statutory dues of the employees, such as, contribution to provident fund, gratuity and bonus;

(e) the partly paid-up shares, if any outstanding on the date of allotment, are made fully paid-up;

(f) it complies with such conditions as may be prescribed.

(3) The bonus shares shall not be issued in lieu of dividend.

64. (1) Where—

(a) a company alters its share capital in any manner specified in sub-section (1) of section 61;

(b) an order made by the Government under sub-section (4) read with sub-section (6) of section 62 has the effect of increasing authorised capital of a company; or

(c) a company redeems any redeemable preference shares,

the company shall file a notice in the prescribed form with the Registrar within a period of thirty days of such alteration or increase or redemption, as the case may be, along with an altered memorandum.

(2) If a company and any officer of the company who is in default contravenes the provisions of sub-section (1), it or he shall be punishable with fine which may extend to one thousand rupees for each day during which such default continues, or five lakh rupees, whichever is less.

65. An unlimited company having a share capital may, by a resolution for registration as a limited company under this Act, do either or both of the following things, namely—

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;

(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Notice to be given to Registrar for alteration of share capital.

Unlimited company to provide for reserve share capital on conversion into limited company.

66. (1) Subject to confirmation by the Tribunal on an application by the company, a company limited by shares or limited by guarantee and having a share capital may, by a special resolution, reduce the share capital in any manner and in particular, may—

Reduction of share capital.

(a) extinguish or reduce the liability on any of its shares in respect of the share capital not paid-up; or

(b) either with or without extinguishing or reducing liability on any of its shares,—

(i) cancel any paid-up share capital which is lost or is unrepresented by available assets; or

(ii) pay off any paid-up share capital which is in excess of the wants of the company,

alter its memorandum by reducing the amount of its share capital and of its shares accordingly:

Provided that no such reduction shall be made if the company is in arrears in the repayment of any deposits accepted by it, either before or after the commencement of this Act, or the interest payable thereon.

(2) The Tribunal shall give notice of every application made to it under sub-section (1) to the Central Government, Registrar and to the Securities and Exchange Board, in the case of listed companies, and the creditors of the company and shall take into consideration the representations, if any, made to it by that Government, Registrar, the Securities and Exchange Board and the creditors within a period of three months from the date of receipt of the notice:

Provided that where no representation has been received from the Central Government, Registrar, the Securities and Exchange Board or the creditors within the said period, it shall be presumed that they have no objection to the reduction.

(3) The Tribunal may, if it is satisfied that the debt or claim of every creditor of the company has been discharged or determined or has been secured or his consent is obtained, make an order confirming the reduction of share capital on such terms and conditions as it deems fit:

Provided that no application for reduction of share capital shall be sanctioned by the Tribunal unless the accounting treatment, proposed by the company for such reduction is in conformity with the accounting standards specified in section 133 or any other provision of this Act and a certificate to that effect by the company's auditor has been filed with the Tribunal.

(4) The order of confirmation of the reduction of share capital by the Tribunal under sub-section (3) shall be published by the company in such manner as the Tribunal may direct.

(5) The company shall deliver a certified copy of the order of the Tribunal under sub-section (3) and of a minute approved by the Tribunal showing—

(a) the amount of share capital;

(b) the number of shares into which it is to be divided;

(c) the amount of each share; and

(d) the amount, if any, at the date of registration deemed to be paid-up on each share,

to the Registrar within thirty days of the receipt of the copy of the order, who shall register the same and issue a certificate to that effect.

(6) Nothing in this section shall apply to buy-back of its own securities by a company under section 68.

(7) A member of the company, past or present, shall not be liable to any call or contribution in respect of any share held by him exceeding the amount of difference, if any, between the amount paid on the share, or reduced amount, if any, which is to be deemed to have been paid thereon, as the case may be, and the amount of the share as fixed by the order of reduction.

(8) Where the name of any creditor entitled to object to the reduction of share capital under this section is, by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his debt or claim, not entered on the list of creditors, and after such reduction, the company is unable, within the meaning of sub-section (2) of section 271, to pay the amount of his debt or claim,—

(a) every person, who was a member of the company on the date of the registration of the order for reduction by the Registrar, shall be liable to contribute to the payment of that debt or claim, an amount not exceeding the amount which he would have been liable to contribute if the company had commenced winding up on the day immediately before the said date; and

(b) if the company is wound up, the Tribunal may, on the application of any such creditor and proof of his ignorance as aforesaid, if it thinks fit, settle a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(9) Nothing in sub-section (8) shall affect the rights of the contributories among themselves.

(10) If any officer of the company—

(a) knowingly conceals the name of any creditor entitled to object to the reduction;

(b) knowingly misrepresents the nature or amount of the debt or claim of any creditor; or

(c) abets or is privy to any such concealment or misrepresentation as aforesaid, he shall be liable under section 447.

(11) If a company fails to comply with the provisions of sub-section (4), it shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees.

67. (1) No company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless the consequent reduction of share capital is effected under the provisions of this Act.

(2) No public company shall give, whether directly or indirectly and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase or subscription made or to be made, by any person of or for any shares in the company or in its holding company.

(3) Nothing in sub-section (2) shall apply to—

(a) the lending of money by a banking company in the ordinary course of its business;

Restrictions
on purchase
by company
or giving of
loans by it for
purchase of
its shares.

(b) the provision by a company of money in accordance with any scheme approved by company through special resolution and in accordance with such requirements as may be prescribed, for the purchase of, or subscription for, fully paid-up shares in the company or its holding company, if the purchase of, or the subscription for, the shares held by trustees for the benefit of the employees or such shares held by the employee of the company;

(c) the giving of loans by a company to persons in the employment of the company other than its directors or key managerial personnel, for an amount not exceeding their salary or wages for a period of six months with a view to enabling them to purchase or subscribe for fully paid-up shares in the company or its holding company to be held by them by way of beneficial ownership:

Provided that disclosures in respect of voting rights not exercised directly by the employees in respect of shares to which the scheme relates shall be made in the Board's report in such manner as may be prescribed.

(4) Nothing in this section shall affect the right of a company to redeem any preference shares issued by it under this Act or under any previous company law.

(5) If a company contravenes the provisions of this section, it shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

68. (1) Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (2), a company may purchase its own shares or other specified securities (hereinafter referred to as buy-back) out of—

Power of company to purchase its own securities.

(a) its free reserves;

(b) the securities premium account; or

(c) the proceeds of the issue of any shares or other specified securities:

Provided that no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

(2) No company shall purchase its own shares or other specified securities under sub-section (1), unless—

(a) the buy-back is authorised by its articles;

(b) a special resolution has been passed at a general meeting of the company authorising the buy-back:

Provided that nothing contained in this clause shall apply to a case where—

(i) the buy-back is, ten per cent. or less of the total paid-up equity capital and free reserves of the company; and

(ii) such buy-back has been authorised by the Board by means of a resolution passed at its meeting;

(c) the buy-back is twenty-five per cent. or less of the aggregate of paid-up capital and free reserves of the company:

Provided that in respect of the buy-back of equity shares in any financial year, the reference to twenty-five per cent. in this clause shall be construed with respect to its total paid-up equity capital in that financial year;

(d) the ratio of the aggregate of secured and unsecured debts owed by the company after buy-back is not more than twice the paid-up capital and its free reserves;

Provided that the Central Government may, by order, notify a higher ratio of the debt to capital and free reserves for a class or classes of companies;

(e) all the shares or other specified securities for buy-back are fully paid-up;

(f) the buy-back of the shares or other specified securities listed on any recognised stock exchange is in accordance with the regulations made by the Securities and Exchange Board in this behalf; and

(g) the buy-back in respect of shares or other specified securities other than those specified in clause (f) is in accordance with such rules as may be prescribed:

Provided that no offer of buy-back under this sub-section shall be made within a period of one year reckoned from the date of the closure of the preceding offer of buy-back, if any.

(3) The notice of the meeting at which the special resolution is proposed to be passed under clause (b) of sub-section (2) shall be accompanied by an explanatory statement stating—

(a) a full and complete disclosure of all material facts;

(b) the necessity for the buy-back;

(c) the class of shares or securities intended to be purchased under the buy-back;

(d) the amount to be invested under the buy-back; and

(e) the time-limit for completion of buy-back.

(4) Every buy-back shall be completed within a period of one year from the date of passing of the special resolution, or as the case may be, the resolution passed by the Board under clause (b) of sub-section (2).

(5) The buy-back under sub-section (1) may be—

(a) from the existing shareholders or security holders on a proportionate basis;

(b) from the open market;

(c) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(6) Where a company proposes to buy-back its own shares or other specified securities under this section in pursuance of a special resolution under clause (b) of sub-section (2) or a resolution under item (ii) of the proviso thereto, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board, a declaration of solvency signed by at least two directors of the company, one of whom shall be the managing director, if any, in such form as may be prescribed and verified by an affidavit to the effect that the Board of Directors of the company has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year from the date of declaration adopted by the Board:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(7) Where a company buys back its own shares or other specified securities, it shall extinguish and physically destroy the shares or securities so bought back within seven days of the last date of completion of buy-back.

(8) Where a company completes a buy-back of its shares or other specified securities under this section, it shall not make a further issue of the same kind of shares or other securities including allotment of new shares under clause (a) of sub-section (1) of section 62 or other specified securities within a period of six months except by way of a bonus issue or

in the discharge of subsisting obligations such as conversion of warrants, stock option schemes, sweat equity or conversion of preference shares or debentures into equity shares.

(9) Where a company buys back its shares or other specified securities under this section, it shall maintain a register of the shares or securities so bought, the consideration paid for the shares or securities bought back, the date of cancellation of shares or securities, the date of extinguishing and physically destroying the shares or securities and such other particulars as may be prescribed.

(10) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed:

Provided that no return shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(11) If a company makes any default in complying with the provisions of this section or any regulation made by the Securities and Exchange Board, for the purposes of clause (f) of sub-section (2), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.

Explanation I.—For the purposes of this section and section 70, “specified securities” includes employees’ stock option or other securities as may be notified by the Central Government from time to time.

Explanation II.—For the purposes of this section, “free reserves” includes securities premium account.

69. (1) Where a company purchases its own shares out of free reserves or securities premium account, a sum equal to the nominal value of the shares so purchased shall be transferred to the capital redemption reserve account and details of such transfer shall be disclosed in the balance sheet.

Transfer of certain sums to capital redemption reserve account.

(2) The capital redemption reserve account may be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

70. (1) No company shall directly or indirectly purchase its own shares or other specified securities—

Prohibition for buy-back in certain circumstances.

(a) through any subsidiary company including its own subsidiary companies;

(b) through any investment company or group of investment companies; or

(c) if a default, is made by the company, in the repayment of deposits accepted either before or after the commencement of this Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company:

Provided that the buy-back is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

(2) No company shall, directly or indirectly, purchase its own shares or other specified securities in case such company has not complied with the provisions of sections 92, 123, 127 and section 129.

Debentures.

71. (1) A company may issue debentures with an option to convert such debentures into shares, either wholly or partly at the time of redemption:

Provided that the issue of debentures with an option to convert such debentures into shares, wholly or partly, shall be approved by a special resolution passed at a general meeting.

(2) No company shall issue any debentures carrying any voting rights.

(3) Secured debentures may be issued by a company subject to such terms and conditions as may be prescribed.

(4) Where debentures are issued by a company under this section, the company shall create a debenture redemption reserve account out of the profits of the company available for payment of dividend and the amount credited to such account shall not be utilised by the company except for the redemption of debentures.

(5) No company shall issue a prospectus or make an offer or invitation to the public or to its members exceeding five hundred for the subscription of its debentures, unless the company has, before such issue or offer, appointed one or more debenture trustees and the conditions governing the appointment of such trustees shall be such as may be prescribed.

(6) A debenture trustee shall take steps to protect the interests of the debenture-holders and redress their grievances in accordance with such rules as may be prescribed.

(7) Any provision contained in a trust deed for securing the issue of debentures, or in any contract with the debenture-holders secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from, or indemnifying him against, any liability for breach of trust, where he fails to show the degree of care and due diligence required of him as a trustee, having regard to the provisions of the trust deed conferring on him any power, authority or discretion:

Provided that the liability of the debenture trustee shall be subject to such exemptions as may be agreed upon by a majority of debenture-holders holding not less than three-fourths in value of the total debentures at a meeting held for the purpose.

(8) A company shall pay interest and redeem the debentures in accordance with the terms and conditions of their issue.

(9) Where at any time the debenture trustee comes to a conclusion that the assets of the company are insufficient or are likely to become insufficient to discharge the principal amount as and when it becomes due, the debenture trustee may file a petition before the Tribunal and the Tribunal may, after hearing the company and any other person interested in the matter, by order, impose such restrictions on the incurring of any further liabilities by the company as the Tribunal may consider necessary in the interests of the debenture-holders.

(10) Where a company fails to redeem the debentures on the date of their maturity or fails to pay interest on the debentures when it is due, the Tribunal may, on the application of any or all of the debenture-holders, or debenture trustee and, after hearing the parties concerned, direct, by order, the company to redeem the debentures forthwith on payment of principal and interest due thereon.

(11) If any default is made in complying with the order of the Tribunal under this section, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than two lakh rupees but which may extend to five lakh rupees, or with both.

(12) A contract with the company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

(13) The Central Government may prescribe the procedure, for securing the issue of debentures, the form of debenture trust deed, the procedure for the debenture-holders to inspect the trust deed and to obtain copies thereof, quantum of debenture redemption reserve required to be created and such other matters.

72. (1) Every holder of securities of a company may, at any time, nominate, in the prescribed manner, any person to whom his securities shall vest in the event of his death.

Power to nominate.

(2) Where the securities of a company are held by more than one person jointly, the joint holders may together nominate, in the prescribed manner, any person to whom all the rights in the securities shall vest in the event of death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of the securities of a company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the securities of the company, the nominee shall, on the death of the holder of securities or, as the case may be, on the death of the joint holders, become entitled to all the rights in the securities, of the holder or, as the case may be, of all the joint holders, in relation to such securities; to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the holder of the securities, making the nomination to appoint, in the prescribed manner, any person to become entitled to the securities of the company, in the event of the death of the nominee during his minority.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

73. (1) On and after the commencement of this Act, no company shall invite, accept or renew deposits under this Act from the public except in a manner provided under this Chapter:

Prohibition on acceptance of deposits from public.

2 of 1934.

Provided that nothing in this sub-section shall apply to a banking company and non-banking financial company as defined in the Reserve Bank of India Act, 1934 and to such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

(2) A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely:—

(a) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed;

(b) filing a copy of the circular along with such statement with the Registrar within thirty days before the date of issue of the circular;

(c) depositing such sum which shall not be less than fifteen per cent. of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;

(d) providing such deposit insurance in such manner and to such extent as may be prescribed;

(e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits; and

(f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company:

Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as "unsecured deposits" and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

(3) Every deposit accepted by a company under sub-section (2) shall be repaid with interest in accordance with the terms and conditions of the agreement referred to in that sub-section.

(4) Where a company fails to repay the deposit or part thereof or any interest thereon under sub-section (3), the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.

(5) The deposit repayment reserve account referred to in clause (c) of sub-section (2) shall not be used by the company for any purpose other than repayment of deposits.

Repayment of deposits, etc., accepted before commencement of this Act.

74. (1) Where in respect of any deposit accepted by a company before the commencement of this Act, the amount of such deposit or part thereof or any interest due thereon remains unpaid on such commencement or becomes due at any time thereafter, the company shall—

(a) file, within a period of three months from such commencement or from the date on which such payments are due, with the Registrar a statement of all the deposits accepted by the company and sums remaining unpaid on such amount with the interest payable thereon along with the arrangements made for such repayment, notwithstanding anything contained in any other law for the time being in force or under the terms and conditions subject to which the deposit was accepted or any scheme framed under any law; and

(b) repay within one year from such commencement or from the date on which such payments are due, whichever is earlier.

(2) The Tribunal may on an application made by the company, after considering the financial condition of the company, the amount of deposit or part thereof and the interest payable thereon and such other matters, allow further time as considered reasonable to the company to repay the deposit.

(3) If a company fails to repay the deposit or part thereof or any interest thereon within the time specified in sub-section (1) or such further time as may be allowed by the Tribunal under sub-section (2), the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees and every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both.

Damages for fraud.

75. (1) Where a company fails to repay the deposit or part thereof or any interest thereon referred to in section 74 within the time specified in sub-section (1) of that section or such further time as may be allowed by the Tribunal under sub-section (2) of that section, and it is proved that the deposits had been accepted with intent to defraud the depositors or for any fraudulent purpose, every officer of the company who was responsible for the acceptance of such deposit shall, without prejudice to the provisions contained in sub-section (3) of that section and liability under section 447, be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by the depositors.

(2) Any suit, proceedings or other action may be taken by any person, group of persons or any association of persons who had incurred any loss as a result of the failure of the company to repay the deposits or part thereof or any interest thereon.

76. (1) Notwithstanding anything contained in section 73, a public company, having such net worth or turnover as may be prescribed, may accept deposits from persons other than its members subject to compliance with the requirements provided in sub-section (2) of section 73 and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe:

Acceptance of deposits from public by certain companies.

Provided that such a company shall be required to obtain the rating (including its networth, liquidity and ability to pay its deposits on due date) from a recognised credit rating agency for informing the public the rating given to the company at the time of invitation of deposits from the public which ensures adequate safety and the rating shall be obtained for every year during the tenure of deposits:

Provided further that every company accepting secured deposits from the public shall within thirty days of such acceptance, create a charge on its assets of an amount not less than the amount of deposits accepted in favour of the deposit holders in accordance with such rules as may be prescribed.

(2) The provisions of this Chapter shall, *mutatis mutandis*, apply to the acceptance of deposits from public under this section.

CHAPTER VI

REGISTRATION OF CHARGES

77. (1) It shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the charge-holder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation:

Duty to register charges, etc.

Provided that the Registrar may, on an application by the company, allow such registration to be made within a period of three hundred days of such creation on payment of such additional fees as may be prescribed:

Provided further that if registration is not made within a period of three hundred days of such creation, the company shall seek extension of time in accordance with section 87:

Provided also that any subsequent registration of a charge shall not prejudice any right acquired in respect of any property before the charge is actually registered.

(2) Where a charge is registered with the Registrar under sub-section (1), he shall issue a certificate of registration of such charge in such form and in such manner as may be prescribed to the company and, as the case may be, to the person in whose favour the charge is created.

(3) Notwithstanding anything contained in any other law for the time being in force, no charge created by a company shall be taken into account by the liquidator or any other creditor unless it is duly registered under sub-section (1) and a certificate of registration of such charge is given by the Registrar under sub-section (2).

(4) Nothing in sub-section (3) shall prejudice any contract or obligation for the repayment of the money secured by a charge.

78. Where a company fails to register the charge within the period specified in section 77, without prejudice to its liability in respect of any offence under this Chapter, the person in whose favour the charge is created may apply to the Registrar for registration of the charge along with the instrument created for the charge, within such time and in such form and manner as may be prescribed and the Registrar may, on such application, within a period of fourteen days after giving notice to the company, unless the company itself registers the charge or shows sufficient cause why such charge should not be registered, allow such registration on payment of such fees, as may be prescribed:

Application for registration of charge.

Provided that where registration is effected on application of the person in whose favour the charge is created, that person shall be entitled to recover from the company the

amount of any fees or additional fees paid by him to the Registrar for the purpose of registration of charge.

Section 77 to apply in certain matters.

79. The provisions of section 77 relating to registration of charges shall, so far as may be, apply to—

(a) a company acquiring any property subject to a charge within the meaning of that section; or

(b) any modification in the terms or conditions or the extent or operation of any charge registered under that section.

Date of notice of charge.

80. Where any charge on any property or assets of a company or any of its undertakings is registered under section 77, any person acquiring such property, assets, undertakings or part thereof or any share or interest therein shall be deemed to have notice of the charge from the date of such registration.

Register of charges to be kept by Registrar.

81. (1) The Registrar shall, in respect of every company, keep a register containing particulars of the charges registered under this Chapter in such form and in such manner as may be prescribed.

(2) A register kept in pursuance of this section shall be open to inspection by any person on payment of such fees as may be prescribed for each inspection.

Company to report satisfaction of charge.

82. (1) A company shall give intimation to the Registrar in the prescribed form, of the payment or satisfaction in full of any charge registered under this Chapter within a period of thirty days from the date of such payment or satisfaction and the provisions of sub-section (1) of section 77 shall, as far as may be, apply to an intimation given under this section.

(2) The Registrar shall, on receipt of intimation under sub-section (1), cause a notice to be sent to the holder of the charge calling upon him to show cause within such time not exceeding fourteen days, as may be specified in such notice, as to why payment or satisfaction in full should not be recorded as intimated to the Registrar, and if no cause is shown, by such holder of the charge, the Registrar shall order that a memorandum of satisfaction shall be entered in the register of charges kept by him under section 81 and shall inform the company that he has done so:

Provided that the notice referred to in this sub-section shall not be required to be sent, in case the intimation to the Registrar in this regard is in the specified form and signed by the holder of charge.

(3) If any cause is shown, the Registrar shall record a note to that effect in the register of charges and shall inform the company.

(4) Nothing in this section shall be deemed to affect the powers of the Registrar to make an entry in the register of charges under section 83 or otherwise than on receipt of an intimation from the company.

Power of Registrar to make entries of satisfaction and release in absence of intimation from company.

83. (1) The Registrar may, on evidence being given to his satisfaction with respect to any registered charge,—

(a) that the debt for which the charge was given has been paid or satisfied in whole or in part; or

(b) that part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking,

enter in the register of charges a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking, as the case may be, notwithstanding the fact that no intimation has been received by him from the company.

(2) The Registrar shall inform the affected parties within thirty days of making the entry in the register of charges kept under sub-section (1) of section 81.

84. (1) If any person obtains an order for the appointment of a receiver of, or of a person to manage, the property, subject to a charge, of a company or if any person appoints such receiver or person under any power contained in any instrument, he shall, within a period of thirty days from the date of the passing of the order or of the making of the appointment, give notice of such appointment to the company and the Registrar along with a copy of the order or instrument and the Registrar shall, on payment of the prescribed fees, register particulars of the receiver, person or instrument in the register of charges.

Intimation of appointment of receiver or manager.

(2) Any person appointed under sub-section (1) shall, on ceasing to hold such appointment, give to the company and the Registrar a notice to that effect and the Registrar shall register such notice.

85. (1) Every company shall keep at its registered office a register of charges in such form and in such manner as may be prescribed, which shall include therein all charges and floating charges affecting any property or assets of the company or any of its undertakings, indicating in each case such particulars as may be prescribed:

Company's register of charges.

Provided that a copy of the instrument creating the charge shall also be kept at the registered office of the company along with the register of charges.

(2) The register of charges and instrument of charges, kept under sub-section (1) shall be open for inspection during business hours—

(a) by any member or creditor without any payment of fees; or

(b) by any other person on payment of such fees as may be prescribed,

subject to such reasonable restrictions as the company may, by its articles, impose.

86. If any company contravenes any provision of this Chapter, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Punishment for contravention.

87. (1) The Central Government on being satisfied that—

Rectification by Central Government in register of charges.

(i) (a) the omission to file with the Registrar the particulars of any charge created by a company or any charge subject to which any property has been acquired by a company or any modification of such charge; or

(b) the omission to register any charge within the time required under this Chapter or the omission to give intimation to the Registrar of the payment or the satisfaction of a charge, within the time required under this Chapter; or

(c) the omission or mis-statement of any particular with respect to any such charge or modification or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,

was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or shareholders of the company; or

(ii) on any other grounds, it is just and equitable to grant relief,

it may on the application of the company or any person interested and on such terms and conditions as it may seem to the Central Government just and expedient, direct that the time

for the filing of the particulars or for the registration of the charge or for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or mis-statement shall be rectified.

(2) Where the Central Government extends the time for the registration of a charge, the order shall not prejudice any rights acquired in respect of the property concerned before the charge is actually registered.

CHAPTER VII

MANAGEMENT AND ADMINISTRATION

Register of
members, etc.

88. (1) Every company shall keep and maintain the following registers in such form and in such manner as may be prescribed, namely:—

(a) register of members indicating separately for each class of equity and preference shares held by each member residing in or outside India;

(b) register of debenture-holders; and

(c) register of any other security holders.

(2) Every register maintained under sub-section (1) shall include an index of the names included therein.

(3) The register and index of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be the corresponding register and index for the purposes of this Act.

22 of 1996.

(4) A company may, if so authorised by its articles, keep in any country outside India, in such manner as may be prescribed, a part of the register referred to in sub-section (1), called "foreign register" containing the names and particulars of the members, debenture-holders, other security holders or beneficial owners residing outside India.

(5) If a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of sub-section (1) or sub-section (2), the company and every officer of the company who is in default shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day, after the first during which the failure continues.

Declaration in
respect of
beneficial
interest in
any share.

89. (1) Where the name of a person is entered in the register of members of a company as the holder of shares in that company but who does not hold the beneficial interest in such shares, such person shall make a declaration within such time and in such form as may be prescribed to the company specifying the name and other particulars of the person who holds the beneficial interest in such shares.

(2) Every person who holds or acquires a beneficial interest in share of a company shall make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed.

(3) Where any change occurs in the beneficial interest in such shares, the person referred to in sub-section (1) and the beneficial owner specified in sub-section (2) shall, within a period of thirty days from the date of such change, make a declaration to the company in such form and containing such particulars as may be prescribed.

(4) The Central Government may make rules to provide for the manner of holding and disclosing beneficial interest and beneficial ownership under this section.

(5) If any person fails, to make a declaration as required under sub-section (1) or sub-section (2) or sub-section (3), without any reasonable cause, he shall be punishable with fine which may extend to fifty thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

(6) Where any declaration under this section is made to a company, the company shall make a note of such declaration in the register concerned and shall file, within thirty days from the date of receipt of declaration by it, a return in the prescribed form with the Registrar in respect of such declaration with such fees or additional fees as may be prescribed, within the time specified under section 403.

(7) If a company, required to file a return under sub-section (6), fails to do so before the expiry of the time specified under the first proviso to sub-section (1) of section 403, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

(8) No right in relation to any share in respect of which a declaration is required to be made under this section but not made by the beneficial owner, shall be enforceable by him or by any person claiming through him.

(9) Nothing in this section shall be deemed to prejudice the obligation of a company to pay dividend to its members under this Act and the said obligation shall, on such payment, stand discharged.

90. Where it appears to the Central Government that there are reasons so to do, it may appoint one or more competent persons to investigate and report as to beneficial ownership with regard to any share or class of shares and the provisions of section 216 shall, as far as may be, apply to such investigation as if it were an investigation ordered under that section.

Investigation of beneficial ownership of shares in certain cases.

91. (1) A company may close the register of members or the register of debenture-holders or the register of other security holders for any period or periods not exceeding in the aggregate forty-five days in each year, but not exceeding thirty days at any one time, subject to giving of previous notice of at least seven days or such lesser period as may be specified by Securities and Exchange Board for listed companies or the companies which intend to get their securities listed, in such manner as may be prescribed.

Power to close register of members or debenture-holders or other security holders.

(2) If the register of members or of debenture-holders or of other security holders is closed without giving the notice as provided in sub-section (1), or after giving shorter notice than that so provided, or for a continuous or an aggregate period in excess of the limits specified in that sub-section, the company and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for every day subject to a maximum of one lakh rupees during which the register is kept closed.

92. (1) Every company shall prepare a return (hereinafter referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding—

Annual return.

(a) its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;

(b) its shares, debentures and other securities and shareholding pattern;

(c) its indebtedness;

(d) its members and debenture-holders along with changes therein since the close of the previous financial year;

(e) its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year;

(f) meetings of members or a class thereof, Board and its various committees along with attendance details;

(g) remuneration of directors and key managerial personnel;

(h) penalty or punishment imposed on the company, its directors or officers and details of compounding of offences and appeals made against such penalty or punishment;

(i) matters relating to certification of compliances, disclosures as may be prescribed;

(j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them; and

(k) such other matters as may be prescribed,

and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice:

Provided that in relation to One Person Company and small company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.

(2) The annual return, filed by a listed company or, by a company having such paid-up capital and turnover as may be prescribed, shall be certified by a company secretary in practice in the prescribed form, stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act.

(3) An extract of the annual return in such form as may be prescribed shall form part of the Board's report.

(4) Every company shall file with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, within the time as specified, under section 403.

(5) If a company fails to file its annual return under sub-section (4), before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakhs rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

(6) If a company secretary in practice certifies the annual return otherwise than in conformity with the requirements of this section or the rules made thereunder, he shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

93. Every listed company shall file a return in the prescribed form with the Registrar with respect to change in the number of shares held by promoters and top ten shareholders of such company, within fifteen days of such change.

Return to be
filed with
Registrar in
case promot-
ers' stake
changes:

94. (1) The registers required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company:

Place of keeping and inspection of registers, returns, etc.

Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company and the Registrar has been given a copy of the proposed special resolution in advance:

Provided further that the period for which the registers, returns and records are required to be kept shall be such as may be prescribed.

(2) The registers and their indices, except when they are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.

(3) Any such member, debenture-holder, other security holder or beneficial owner or any other person may—

(a) take extracts from any register, or index or return without payment of any fee; or

(b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed.

(4) If any inspection or the making of any extract or copy required under this section is refused, the company and every officer of the company who is in default shall be liable, for each such default, to a penalty of one thousand rupees for every day subject to a maximum of one lakh rupees during which the refusal or default continues.

(5) The Central Government may also, by order, direct an immediate inspection of the document, or direct that the extract required shall forthwith be allowed to be taken by the person requiring it.

95. The registers, their indices and copies of annual returns maintained under sections 88 and 94 shall be *prima facie* evidence of any matter directed or authorised to be inserted therein by or under this Act.

Registers, etc., to be evidence.

96. (1) Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:

Annual general meeting.

Provided that in case of the first annual general meeting, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year:

Provided further that if a company holds its first annual general meeting as aforesaid, it shall not be necessary for the company to hold any annual general meeting in the year of its incorporation:

Provided also that the Registrar may, for any special reason, extend the time within which any annual general meeting, other than the first annual general meeting, shall be held, by a period not exceeding three months.

(2) Every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate:

Provided that the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose.

Explanation.—For the purposes of this sub-section, “National Holiday” means and includes a day declared as National Holiday by the Central Government.

Power of
Tribunal to
call annual
general
meeting.

97. (1) If any default is made in holding the annual general meeting of a company under section 96, the Tribunal may, notwithstanding anything contained in this Act or the articles of the company, on the application of any member of the company, call, or direct the calling of, an annual general meeting of the company and give such ancillary or consequential directions as the Tribunal thinks expedient:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) A general meeting held in pursuance of sub-section (1) shall, subject to any directions of the Tribunal, be deemed to be an annual general meeting of the company under this Act.

Power of
Tribunal to
call meetings
of members,
etc.

98. (1) If for any reason it is impracticable to call a meeting of a company, other than an annual general meeting, in any manner in which meetings of the company may be called, or to hold or conduct the meeting of the company in the manner prescribed by this Act or the articles of the company, the Tribunal may, either *suo motu* or on the application of any director or member of the company who would be entitled to vote at the meeting,—

(a) order a meeting of the company to be called, held and conducted in such manner as the Tribunal thinks fit; and

(b) give such ancillary or consequential directions as the Tribunal thinks expedient, including directions modifying or supplementing in relation to the calling, holding and conducting of the meeting, the operation of the provisions of this Act or articles of the company:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) Any meeting called, held and conducted in accordance with any order made under sub-section (1) shall, for all purposes, be deemed to be a meeting of the company duly called, held and conducted.

Punishment
for default in
complying
with provi-
sions of
sections 96
to 98.

99. If any default is made in holding a meeting of the company in accordance with section 96 or section 97 or section 98 or in complying with any directions of the Tribunal, the company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.

Calling of
extraordinary
general
meeting.

100. (1) The Board may, whenever it deems fit, call an extraordinary general meeting of the company.

(2) The Board shall, at the requisition made by,—

(a) in the case of a company having a share capital, such number of members who hold, on the date of the receipt of the requisition, not less than one-tenth of such of the paid-up share capital of the company as on that date carries the right of voting;

(b) in the case of a company not having a share capital, such number of members who have, on the date of receipt of the requisition, not less than one-tenth of the total voting power of all the members having on the said date a right to vote,

call an extraordinary general meeting of the company within the period specified in sub-section (4).

(3) The requisition made under sub-section (2) shall set out the matters for the consideration of which the meeting is to be called and shall be signed by the requisitionists and sent to the registered office of the company.

(4) If the Board does not, within twenty-one days from the date of receipt of a valid requisition in regard to any matter, proceed to call a meeting for the consideration of that matter on a day not later than forty-five days from the date of receipt of such requisition, the meeting may be called and held by the requisitionists themselves within a period of three months from the date of the requisition.

(5) A meeting under sub-section (4) by the requisitionists shall be called and held in the same manner in which the meeting is called and held by the Board.

(6) Any reasonable expenses incurred by the requisitionists in calling a meeting under sub-section (4) shall be reimbursed to the requisitionists by the company and the sums so paid shall be deducted from any fee or other remuneration under section 197 payable to such of the directors who were in default in calling the meeting.

101. (1) A general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as may be prescribed:

Notice of meeting.

Provided that a general meeting may be called after giving a shorter notice if consent is given in writing or by electronic mode by not less than ninety-five per cent. of the members entitled to vote at such meeting.

(2) Every notice of a meeting shall specify the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.

(3) The notice of every meeting of the company shall be given to—

- (a) every member of the company, legal representative of any deceased member or the assignee of an insolvent member;
- (b) the auditor or auditors of the company; and
- (c) every director of the company.

(4) Any accidental omission to give notice to, or the non-receipt of such notice by, any member or other person who is entitled to such notice for any meeting shall not invalidate the proceedings of the meeting.

102. (1) A statement setting out the following material facts concerning each item of special business to be transacted at a general meeting, shall be annexed to the notice calling such meeting, namely:—

Statement to be annexed to notice.

(a) the nature of concern or interest, financial or otherwise, if any, in respect of each items of—

- (i) every director and the manager, if any;
- (ii) every other key managerial personnel; and
- (iii) relatives of the persons mentioned in sub-clauses (i) and (ii);

(b) any other information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decision thereon.

(2) For the purposes of sub-section (1),—

(a) in the case of an annual general meeting, all business to be transacted thereat shall be deemed special, other than—

- (i) the consideration of financial statements and the reports of the Board of Directors and auditors;
 - (ii) the declaration of any dividend;
 - (iii) the appointment of directors in place of those retiring;
 - (iv) the appointment of, and the fixing of the remuneration of, the auditors;
- and

(b) in the case of any other meeting, all business shall be deemed to be special:

Provided that where any item of special business to be transacted at a meeting of the company relates to or affects any other company, the extent of shareholding interest in that other company of every promoter, director, manager, if any, and of every other key managerial personnel of the first mentioned company shall, if the extent of such shareholding is not less than two per cent. of the paid-up share capital of that company, also be set out in the statement.

(3) Where any item of business refers to any document, which is to be considered at the meeting, the time and place where such document can be inspected shall be specified in the statement under sub-section (1).

(4) Where as a result of the non-disclosure or insufficient disclosure in any statement referred to in sub-section (1), being made by a promoter, director, manager, if any, or other key managerial personnel, any benefit which accrues to such promoter, director, manager or other key managerial personnel or their relatives, either directly or indirectly, the promoter, director, manager or other key managerial personnel, as the case may be, shall hold such benefit in trust for the company, and shall, without prejudice to any other action being taken against him under this Act or under any other law for the time being in force, be liable to compensate the company to the extent of the benefit received by him.

(5) If any default is made in complying with the provisions of this section, every promoter, director, manager or other key managerial personnel who is in default shall be punishable with fine which may extend to fifty thousand rupees or five times the amount of benefit accruing to the promoter, director, manager or other key managerial personnel or any of his relatives, whichever is more.

Quorum for meetings.

103. (1) Unless the articles of the company provide for a larger number,—

(a) in case of a public company,—

(i) five members personally present if the number of members as on the date of meeting is not more than one thousand;

(ii) fifteen members personally present if the number of members as on the date of meeting is more than one thousand but up to five thousand;

(iii) thirty members personally present if the number of members as on the date of the meeting exceeds five thousand;

(b) in the case of a private company, two members personally present, shall be the quorum for a meeting of the company.

(2) If the quorum is not present within half-an-hour from the time appointed for holding a meeting of the company—

(a) the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other date and such other time and place as the Board may determine; or

(b) the meeting, if called by requisitionists under section 100, shall stand cancelled:

Provided that in case of an adjourned meeting or of a change of day, time or place of meeting under clause (a), the company shall give not less than three days notice to the members either individually or by publishing an advertisement in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated.

(3) If at the adjourned meeting also, a quorum is not present within half-an-hour from the time appointed for holding meeting, the members present shall be the quorum.

Chairman of meetings.

104. (1) Unless the articles of the company otherwise provide, the members personally present at the meeting shall elect one of themselves to be the Chairman thereof on a show of hands.

(2) If a poll is demanded on the election of the Chairman, it shall be taken forthwith in accordance with the provisions of this Act and the Chairman elected on a show of hands under sub-section (1) shall continue to be the Chairman of the meeting until some other person is elected as Chairman as a result of the poll, and such other person shall be the Chairman for the rest of the meeting.

105. (1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf: Proxies.

Provided that a proxy shall not have the right to speak at such meeting and shall not be entitled to vote except on a poll:

Provided further that, unless the articles of a company otherwise provide, this sub-section shall not apply in the case of a company not having a share capital:

Provided also that the Central Government may prescribe a class or classes of companies whose members shall not be entitled to appoint another person as a proxy:

Provided also that a person appointed as proxy shall act on behalf of such member or number of members not exceeding fifty and such number of shares as may be prescribed.

(2) In every notice calling a meeting of a company which has a share capital, or the articles of which provide for voting by proxy at the meeting, there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy, or, where that is allowed, one or more proxies, to attend and vote instead of himself, and that a proxy need not be a member.

(3) If default is made in complying with sub-section (2), every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees.

(4) Any provision contained in the articles of a company which specifies or requires a longer period than forty-eight hours before a meeting of the company, for depositing with the company or any other person any instrument appointing a proxy or any other document necessary to show the validity or otherwise relating to the appointment of a proxy in order that the appointment may be effective at such meeting, shall have effect as if a period of forty-eight hours had been specified in or required by such provision for such deposit.

(5) If for the purpose of any meeting of a company, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense to any member entitled to have a notice of the meeting sent to him and to vote thereat by proxy, every officer of the company who knowingly issues the invitations as aforesaid or wilfully authorises or permits their issue shall be punishable with fine which may extend to one lakh rupees:

Provided that an officer shall not be punishable under this sub-section by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy, or of a list of persons willing to act as proxies, if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(6) The instrument appointing a proxy shall—

(a) be in writing; and

(b) be signed by the appointer or his attorney duly authorised in writing or, if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it.

(7) An instrument appointing a proxy, if in the form as may be prescribed, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instrument by the articles of a company.

(8) Every member entitled to vote at a meeting of the company, or on any resolution to be moved thereat, shall be entitled during the period beginning twenty-four hours before the time fixed for the commencement of the meeting and ending with the conclusion of the meeting, to inspect the proxies lodged, at any time during the business hours of the company, provided not less than three days' notice in writing of the intention so to inspect is given to the company.

Restriction on
voting rights.

106. (1) Notwithstanding anything contained in this Act, the articles of a company may provide that no member shall exercise any voting right in respect of any shares registered in his name on which any calls or other sums presently payable by him have not been paid, or in regard to which the company has exercised any right of lien.

(2) A company shall not, except on the grounds specified in sub-section (1), prohibit any member from exercising his voting right on any other ground.

(3) On a poll taken at a meeting of a company, a member entitled to more than one vote, or his proxy, where allowed, or other person entitled to vote for him, as the case may be, need not, if he votes, use all his votes or cast in the same way all the votes he uses.

Voting by
show of hands.

107. (1) At any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded under section 109 or the voting is carried out electronically, be decided on a show of hands.

(2) A declaration by the Chairman of the meeting of the passing of a resolution or otherwise by show of hands under sub-section (1) and an entry to that effect in the books containing the minutes of the meeting of the company shall be conclusive evidence of the fact of passing of such resolution or otherwise.

Voting
through
electronic
means.

108. The Central Government may prescribe the class or classes of companies and manner in which a member may exercise his right to vote by the electronic means.

Demand for
poll.

109. (1) Before or on the declaration of the result of the voting on any resolution on show of hands, a poll may be ordered to be taken by the Chairman of the meeting on his own motion, and shall be ordered to be taken by him on a demand made in that behalf,—

(a) in the case a company having a share capital, by the members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power or holding shares on which an aggregate sum of not less than five lakh rupees or such higher amount as may be prescribed has been paid-up; and

(b) in the case of any other company, by any member or members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power.

(2) The demand for a poll may be withdrawn at any time by the persons who made the demand.

(3) A poll demanded for adjournment of the meeting or appointment of Chairman of the meeting shall be taken forthwith.

(4) A poll demanded on any question other than adjournment of the meeting or appointment of Chairman shall be taken at such time, not being later than forty-eight hours from the time when the demand was made, as the Chairman of the meeting may direct.

(5) Where a poll is to be taken, the Chairman of the meeting shall appoint such number of persons, as he deems necessary, to scrutinise the poll process and votes given on the poll and to report thereon to him in the manner as may be prescribed.

(6) Subject to the provisions of this section, the Chairman of the meeting shall have power to regulate the manner in which the poll shall be taken.

(7) The result of the poll shall be deemed to be the decision of the meeting on the resolution on which the poll was taken.

Postal ballot.

110. (1) Notwithstanding anything contained in this Act, a company—

(a) shall, in respect of such items of business as the Central Government may, by notification, declare to be transacted only by means of postal ballot; and

(b) may, in respect of any item of business, other than ordinary business and any business in respect of which directors or auditors have a right to be heard at any meeting, transact by means of postal ballot,

in such manner as may be prescribed, instead of transacting such business at a general meeting.

(2) If a resolution is assented to by the requisite majority of the shareholders by means of postal ballot, it shall be deemed to have been duly passed at a general meeting convened in that behalf.

111. (1) A company shall, on requisition in writing of such number of members, as required in section 100,—

Circulation of members' resolution.

(a) give notice to members of any resolution which may properly be moved and is intended to be moved at a meeting; and

(b) circulate to members any statement with respect to the matters referred to in proposed resolution or business to be dealt with at that meeting.

(2) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless—

(a) a copy of the requisition signed by the requisitionists (or two or more copies which, between them, contain the signatures of all the requisitionists) is deposited at the registered office of the company,—

(i) in the case of a requisition requiring notice of a resolution, not less than six weeks before the meeting;

(ii) in the case of any other requisition, not less than two weeks before the meeting; and

(b) there is deposited or tendered with the requisition, a sum reasonably sufficient to meet the company's expenses in giving effect thereto:

Provided that if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the company, an annual general meeting is called on a date within six weeks after the copy has been deposited, the copy, although not deposited within the time required by this sub-section, shall be deemed to have been properly deposited for the purposes thereof.

(3) The company shall not be bound to circulate any statement as required by clause (b) of sub-section (1), if on the application either of the company or of any other person who claims to be aggrieved, the Central Government, by order, declares that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.

(4) An order made under sub-section (3) may also direct that the cost incurred by the company by virtue of this section shall be paid to the company by the requisitionists, notwithstanding that they are not parties to the application.

(5) If any default is made in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees.

112. (1) The President of India or the Governor of a State, if he is a member of a company, may appoint such person as he thinks fit to act as his representative at any meeting of the company or at any meeting of any class of members of the company.

Representation of President and Governors in meetings.

(2) A person appointed to act under sub-section (1) shall, for the purposes of this Act, be deemed to be a member of such a company and shall be entitled to exercise the same rights and powers, including the right to vote by proxy and postal ballot, as the President or, as the case may be, the Governor could exercise as a member of the company.

Representa-
tion of
corporations
at meeting of
companies and
of creditors.

113. (1) A body corporate, whether a company within the meaning of this Act or not, may,—

(a) if it is a member of a company within the meaning of this Act, by resolution of its Board of Directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the company, or at any meeting of any class of members of the company;

(b) if it is a creditor, including a holder of debentures, of a company within the meaning of this Act, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorised by resolution under sub-section (1) shall be entitled to exercise the same rights and powers, including the right to vote by proxy and by postal ballot, on behalf of the body corporate which he represents as that body could exercise if it were an individual member, creditor or holder of debentures of the company.

Ordinary and
special
resolutions.

114. (1) A resolution shall be an ordinary resolution if the notice required under this Act has been duly given and it is required to be passed by the votes cast, whether on a show of hands, or electronically or on a poll, as the case may be, in favour of the resolution, including the casting vote, if any, of the Chairman, by members who, being entitled so to do, vote in person, or where proxies are allowed, by proxy or by postal ballot, exceed the votes, if any, cast against the resolution by members, so entitled and voting.

(2) A resolution shall be a special resolution when—

(a) the intention to propose the resolution as a special resolution has been duly specified in the notice calling the general meeting or other intimation given to the members of the resolution;

(b) the notice required under this Act has been duly given; and

(c) the votes cast in favour of the resolution, whether on a show of hands, or electronically or on a poll, as the case may be, by members who, being entitled so to do, vote in person or by proxy or by postal ballot, are required to be not less than three times the number of the votes, if any, cast against the resolution by members so entitled and voting.

Resolutions
requiring
special notice.

115. Where, by any provision contained in this Act or in the articles of a company, special notice is required of any resolution, notice of the intention to move such resolution shall be given to the company by such number of members holding not less than one per cent. of total voting power or holding shares on which such aggregate sum not exceeding five lakh rupees, as may be prescribed, has been paid-up and the company shall give its members notice of the resolution in such manner as may be prescribed.

Resolutions
passed at
adjourned
meeting.

116. Where a resolution is passed at an adjourned meeting of—

(a) a company; or

(b) the holders of any class of shares in a company; or

(c) the Board of Directors of a company,

the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Resolutions
and agree-
ments to be
filed.

117. (1) A copy of every resolution or any agreement, in respect of matters specified in sub-section (3) together with the explanatory statement under section 102, if any, annexed to the notice calling the meeting in which the resolution is proposed, shall be filed with the Registrar within thirty days of the passing or making thereof in such manner and with such fees as may be prescribed within the time specified under section 403:

Provided that the copy of every resolution which has the effect of altering the articles and the copy of every agreement referred to in sub-section (3) shall be embodied in or

annexed to every copy of the articles issued after passing of the resolution or making of the agreement.

(2) If a company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default, including liquidator of the company, if any, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(3) The provisions of this section shall apply to—

(a) special resolutions;

(b) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions;

(c) any resolution of the Board of Directors of a company or agreement executed by a company, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment, of a managing director;

(d) resolutions or agreements which have been agreed to by any class of members but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by a specified majority or otherwise in some particular manner; and all resolutions or agreements which effectively bind such class of members though not agreed to by all those members;

(e) resolutions passed by a company according consent to the exercise by its Board of Directors of any of the powers under clause (a) and clause (c) of sub-section (1) of section 180;

(f) resolutions requiring a company to be wound up voluntarily passed in pursuance of section 304;

(g) resolutions passed in pursuance of sub-section (3) of section 179; and

(h) any other resolution or agreement as may be prescribed and placed in the public domain.

118. (1) Every company shall cause minutes of the proceedings of every general meeting of any class of shareholders or creditors, and every resolution passed by postal ballot and every meeting of its Board of Directors or of every committee of the Board, to be prepared and signed in such manner as may be prescribed and kept within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot in books kept for that purpose with their pages consecutively numbered.

(2) The minutes of each meeting shall contain a fair and correct summary of the proceedings thereat.

(3) All appointments made at any of the meetings aforesaid shall be included in the minutes of the meeting.

(4) In the case of a meeting of the Board of Directors or of a committee of the Board, the minutes shall also contain—

(a) the names of the directors present at the meeting; and

(b) in the case of each resolution passed at the meeting, the names of the directors, if any, dissenting from, or not concurring with the resolution.

(5) There shall not be included in the minutes, any matter which, in the opinion of the Chairman of the meeting,—

(a) is or could reasonably be regarded as defamatory of any person; or

(b) is irrelevant or immaterial to the proceedings; or

(c) is detrimental to the interests of the company.

(6) The Chairman shall exercise absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the grounds specified in sub-section (5).

Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot.

(7) The minutes kept in accordance with the provisions of this section shall be evidence of the proceedings recorded therein.

(8) Where the minutes have been kept in accordance with sub-section (1) then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and the resolutions passed by postal ballot to have been duly passed and in particular, all appointments of directors, key managerial personnel, auditors or company secretary in practice, shall be deemed to be valid.

(9) No document purporting to be a report of the proceedings of any general meeting of a company shall be circulated or advertised at the expense of the company, unless it includes the matters required by this section to be contained in the minutes of the proceedings of such meeting.

(10) Every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980, and approved as such by the Central Government.

56 of 1980.

(11) If any default is made in complying with the provisions of this section in respect of any meeting, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.

(12) If a person is found guilty of tampering with the minutes of the proceedings of meeting, he shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

Inspection of
minute-books
of general
meeting.

119. (1) The books containing the minutes of the proceedings of any general meeting of a company or of a resolution passed by postal ballot, shall—

(a) be kept at the registered office of the company; and

(b) be open, during business hours, to the inspection by any member without charge, subject to such reasonable restrictions as the company may, by its articles or in general meeting, impose, so, however, that not less than two hours in each business day are allowed for inspection.

(2) Any member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the company, and on payment of such fees as may be prescribed, with a copy of any minutes referred to in sub-section (1).

(3) If any inspection under sub-section (1) is refused, or if any copy required under sub-section (2) is not furnished within the time specified therein, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for each such refusal or default, as the case may be.

(4) In the case of any such refusal or default, the Tribunal may, without prejudice to any action being taken under sub-section (3), by order, direct an immediate inspection of the minute-books or direct that the copy required shall forthwith be sent to the person requiring it.

Maintenance
and inspection
of documents in
electronic
form.

120. Without prejudice to any other provisions of this Act, any document, record, register, minutes, etc.,—

(a) required to be kept by a company; or

(b) allowed to be inspected or copies to be given to any person by a company under this Act, may be kept or inspected or copies given, as the case may be, in electronic form in such form and manner as may be prescribed.

Report on
annual
general
meeting.

121. (1) Every listed public company shall prepare in the prescribed manner a report on each annual general meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of this Act and the rules made thereunder.

(2) The company shall file with the Registrar a copy of the report referred to in sub-section (1) within thirty days of the conclusion of the annual general meeting with such fees as may be prescribed, or with such additional fees as may be prescribed, within the time as specified, under section 403.

(3) If the company fails to file the report under sub-section (2) before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

122. (1) The provisions of section 98 and sections 100 to 111 (both inclusive) shall not apply to a One Person Company.

Applicability
of this
Chapter to
One Person
Company.

(2) The ordinary businesses as mentioned under clause (a) of sub-section (2) of section 102 which a company, other than a One Person Company, is required to transact at its annual general meeting, shall be transacted, in case of One Person Company, as provided in sub-section (3).

(3) For the purposes of section 114, any business which is required to be transacted at an annual general meeting or other general meeting of a company by means of an ordinary or special resolution, it shall be sufficient if, in case of One Person Company, the resolution is communicated by the member to the company and entered in the minutes-book required to be maintained under section 118 and signed and dated by the member and such date shall be deemed to be the date of the meeting for all the purposes under this Act.

(4) Notwithstanding anything in this Act, where there is only one director on the Board of Director of a One Person Company, any business which is required to be transacted at the meeting of the Board of Directors of a company, it shall be sufficient if, in case of such One Person Company, the resolution by such director is entered in the minutes-book required to be maintained under section 118 and signed and dated by such director and such date shall be deemed to be the date of the meeting of the Board of Directors for all the purposes under this Act.

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

123. (1) No dividend shall be declared or paid by a company for any financial year except—

Declaration
of dividend.

(a) out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), or out of the profits of the company for any previous financial year or years arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining undistributed, or out of both; or

(b) out of money provided by the Central Government or a State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government:

Provided that a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company:

Provided further that where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall not be made except in accordance with such rules as may be prescribed in this behalf:

Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves.

(2) For the purposes of clause (a) of sub-section (1), depreciation shall be provided in accordance with the provisions of Schedule II.

(3) The Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared:

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

(4) The amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within five days from the date of declaration of such dividend.

(5) No dividend shall be paid by a company in respect of any share therein except to the registered shareholder of such share or to his order or to his banker and shall not be payable except in cash:

Provided that nothing in this sub-section shall be deemed to prohibit the capitalisation of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company:

Provided further that any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholder entitled to the payment of the dividend.

(6) A company which fails to comply with the provisions of sections 73 and 74 shall not, so long as such failure continues, declare any dividend on its equity shares.

Unpaid
Dividend
Account.

124. (1) Where a dividend has been declared by a company but has not been paid or claimed within thirty days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account.

(2) The company shall, within a period of ninety days of making any transfer of an amount under sub-section (1) to the Unpaid Dividend Account, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the website of the company, if any, and also on any other website approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

(3) If any default is made in transferring the total amount referred to in sub-section (1) or any part thereof to the Unpaid Dividend Account of the company, it shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall enure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

(4) Any person claiming to be entitled to any money transferred under sub-section (1) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed.

(5) Any money transferred to the Unpaid Dividend Account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company along with interest accrued, if any, thereon to the Fund established under sub-section (1) of section 125 and the company shall send a statement in the prescribed form of the details of such transfer to the authority which administers the said Fund and that authority shall issue a receipt to the company as evidence of such transfer.

(6) All shares in respect of which unpaid or unclaimed dividend has been transferred under sub-section (5) shall also be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed:

Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.

(7) If a company fails to comply with any of the requirements of this section, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

125. (1) The Central Government shall establish a Fund to be called the Investor Education and Protection Fund (herein referred to as the Fund).

Investor
Education and
Protection
Fund.

(2) There shall be credited to the Fund—

(a) the amount given by the Central Government by way of grants after due appropriation made by Parliament by law in this behalf for being utilised for the purposes of the Fund;

(b) donations given to the Fund by the Central Government, State Governments, companies or any other institution for the purposes of the Fund;

(c) the amount in the Unpaid Dividend Account of companies transferred to the Fund under sub-section (5) of section 124;

(d) the amount in the general revenue account of the Central Government which had been transferred to that account under sub-section (5) of section 205A of the Companies Act, 1956, as it stood immediately before the commencement of the Companies (Amendment) Act, 1999, and remaining unpaid or unclaimed on the commencement of this Act;

(e) the amount lying in the Investor Education and Protection Fund under section 205C of the Companies Act, 1956;

(f) the interest or other income received out of investments made from the Fund;

(g) the amount received under sub-section (4) of section 38;

(h) the application money received by companies for allotment of any securities and due for refund;

(i) matured deposits with companies other than banking companies;

(j) matured debentures with companies;

(k) interest accrued on the amounts referred to in clauses (h) to (j);

(l) sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation for seven or more years;

(m) redemption amount of preference shares remaining unpaid or unclaimed for seven or more years; and

(n) such other amount as may be prescribed:

Provided that no such amount referred to in clauses (h) to (j) shall form part of the Fund unless such amount has remained unclaimed and unpaid for a period of seven years from the date it became due for payment.

(3) The Fund shall be utilised for—

(a) the refund in respect of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon;

(b) promotion of investors' education, awareness and protection;

(c) distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement;

1 of 1956.

21 of 1999.

1 of 1956.

(d) reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and

(e) any other purpose incidental thereto,

in accordance with such rules as may be prescribed:

Provided that the person whose amounts referred to in clauses (a) to (d) of sub-section (2) of section 205C transferred to Investor Education and Protection Fund, after the expiry of the period of seven years as per provisions of the Companies Act, 1956, shall be entitled to get refund out of the Fund in respect of such claims in accordance with rules made under this section.

1 of 1956.

Explanation.—The disgorged amount refers to the amount received through disgorgement or disposal of securities.

(4) Any person claiming to be entitled to the amount referred in sub-section (2) may apply to the authority constituted under sub-section (5) for the payment of the money claimed.

(5) The Central Government shall constitute, by notification, an authority for administration of the Fund consisting of a chairperson and such other members, not exceeding seven and a chief executive officer, as the Central Government may appoint.

(6) The manner of administration of the Fund, appointment of chairperson, members and chief executive officer, holding of meetings of the authority shall be in accordance with such rules as may be prescribed.

(7) The Central Government may provide to the authority such offices, officers, employees and other resources in accordance with such rules as may be prescribed.

(8) The authority shall administer the Fund and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed after consultation with the Comptroller and Auditor-General of India.

(9) It shall be competent for the authority constituted under sub-section (5) to spend money out of the Fund for carrying out the objects specified in sub-section (3).

(10) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually by the authority to the Central Government.

(11) The authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.

126. Where any instrument of transfer of shares has been delivered to any company for registration and the transfer of such shares has not been registered by the company, it shall, notwithstanding anything contained in any other provision of this Act,—

(a) transfer the dividend in relation to such shares to the Unpaid Dividend Account referred to in section 124 unless the company is authorised by the registered holder of such shares in writing to pay such dividend to the transferee specified in such instrument of transfer; and

(b) keep in abeyance in relation to such shares, any offer of rights shares under clause (a) of sub-section (1) of section 62 and any issue of fully paid-up bonus shares in pursuance of first proviso to sub-section (5) of section 123.

127. Where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent. per annum during the period for which such default continues:

Punishment
for failure to
distribute
dividends.

Provided that no offence under this section shall be deemed to have been committed:—

- (a) where the dividend could not be paid by reason of the operation of any law;
- (b) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has been communicated to him;
- (c) where there is a dispute regarding the right to receive the dividend;
- (d) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder; or
- (e) where, for any other reason, the failure to pay the dividend or to post the warrant within the period under this section was not due to any default on the part of the company.

CHAPTER IX

ACCOUNTS OF COMPANIES

128. (1) Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statement for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting:

Books of
account, etc.,
to be kept by
company.

Provided that all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within seven days thereof, file with the Registrar a notice in writing giving the full address of that other place:

Provided further that the company may keep such books of account or other relevant papers in electronic mode in such manner as may be prescribed.

(2) Where a company has a branch office in India or outside India, it shall be deemed to have complied with the provisions of sub-section (1), if proper books of account relating to the transactions effected at the branch office are kept at that office and proper summarised returns periodically are sent by the branch office to the company at its registered office or the other place referred to in sub-section (1).

(3) The books of account and other books and papers maintained by the company within India shall be open for inspection at the registered office of the company or at such other place in India by any director during business hours, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as may be prescribed:

Provided that the inspection in respect of any subsidiary of the company shall be done only by the person authorised in this behalf by a resolution of the Board of Directors.

(4) Where an inspection is made under sub-section (3), the officers and other employees of the company shall give to the person making such inspection all assistance in connection with the inspection which the company may reasonably be expected to give.

(5) The books of account of every company relating to a period of not less than eight financial years immediately preceding a financial year, or where the company had been in existence for a period less than eight years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order:

Provided that where an investigation has been ordered in respect of the company under Chapter XIV, the Central Government may direct that the books of account may be kept for such longer period as it may deem fit.

(6) If the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person of a company charged by the Board with the duty of complying with the provisions of this section, contravenes such provisions, such managing director, whole-time director in charge of finance, Chief Financial officer or such other person of the company shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

Financial
statement.

129. (1) The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III:

Provided that the items contained in such financial statements shall be in accordance with the accounting standards:

Provided further that nothing contained in this sub-section shall apply to any insurance or banking company or any company engaged in the generation or supply of electricity, or to any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company:

Provided also that the financial statements shall not be treated as not disclosing a true and fair view of the state of affairs of the company, merely by reason of the fact that they do not disclose—

(a) in the case of an insurance company, any matters which are not required to be disclosed by the Insurance Act, 1938, or the Insurance Regulatory and Development Authority Act, 1999;

4 of 1938.
41 of 1999.

(b) in the case of a banking company, any matters which are not required to be disclosed by the Banking Regulation Act, 1949;

10 of 1949.

(c) in the case of a company engaged in the generation or supply of electricity, any matters which are not required to be disclosed by the Electricity Act, 2003;

36 of 2003.

(d) in the case of a company governed by any other law for the time being in force, any matters which are not required to be disclosed by that law.

(2) At every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.

(3) Where a company has one or more subsidiaries, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as that of its own which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2):

Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in such form as may be prescribed:

Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed.

Explanation.—For the purposes of this sub-section, the word “subsidiary” shall include associate company and joint venture.

(4) The provisions of this Act applicable to the preparation, adoption and audit of the financial statements of a holding company shall, *mutatis mutandis*, apply to the consolidated financial statements referred to in sub-section (3).

(5) Without prejudice to sub-section (1), where the financial statements of a company do not comply with the accounting standards referred to in sub-section (1), the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

(6) The Central Government may, on its own or on an application by a class or classes of companies, by notification, exempt any class or classes of companies from complying with any of the requirements of this section or the rules made thereunder, if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.

(7) If a company contravenes the provisions of this section, the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Explanation.—For the purposes of this section, except where the context otherwise requires, any reference to the financial statement shall include any notes annexed to or forming part of such financial statement, giving information required to be given and allowed to be given in the form of such notes under this Act.

130. (1) A company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the Central Government, the Income-tax authorities, the Securities and Exchange Board, any other statutory regulatory body or authority or any person concerned and an order is made by a court of competent jurisdiction or the Tribunal to the effect that—

Re-opening of accounts on court's or Tribunal's orders.

(i) the relevant earlier accounts were prepared in a fraudulent manner; or

(ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:

Provided that the court or the Tribunal, as the case may be, shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory regulatory body or authority concerned and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned before passing any order under this section.

(2) Without prejudice to the provisions contained in this Act the accounts so revised or re-cast under sub-section (1) shall be final.

131. (1) If it appears to the directors of a company that—

(a) the financial statement of the company; or

(b) the report of the Board,

do not comply with the provisions of section 129 or section 134 they may prepare revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining approval of the Tribunal on an application made by the company in such form and manner as may be prescribed and a copy of the order passed by the Tribunal shall be filed with the Registrar:

Voluntary revision of financial statements or Board's report.

Provided that the Tribunal shall give notice to the Central Government and the Income-tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section:

Provided further that such revised financial statement or report shall not be prepared or filed more than once in a financial year:

Provided also that the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

(2) Where copies of the previous financial statement or report have been sent out to members or delivered to the Registrar or laid before the company in general meeting, the revisions must be confined to—

(a) the correction in respect of which the previous financial statement or report do not comply with the provisions of section 129 or section 134; and

(b) the making of any necessary consequential alternation.

(3) The Central Government may make rules as to the application of the provisions of this Act in relation to revised financial statement or a revised director's report and such rules may, in particular—

(a) make different provisions according to which the previous financial statement or report are replaced or are supplemented by a document indicating the corrections to be made;

(b) make provisions with respect to the functions of the company's auditor in relation to the revised financial statement or report;

(c) require the directors to take such steps as may be prescribed.

Constitution
of
National
Financial
Reporting
Authority.

132. (1) The Central Government may, by notification, constitute a National Financial Reporting Authority to provide for matters relating to accounting and auditing standards under this Act.

(2) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(a) make recommendations to the Central Government on the formulation and laying down of accounting and auditing policies and standards for adoption by companies or class of companies or their auditors, as the case may be;

(b) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;

(c) oversee the quality of service of the professions associated with ensuring compliance with such standards, and suggest measures required for improvement in quality of service and such other related matters as may be prescribed; and

(d) perform such other functions relating to clauses (a), (b) and (c) as may be prescribed.

(3) The National Financial Reporting Authority shall consist of a chairperson, who shall be a person of eminence and having expertise in accountancy, auditing, finance or law to be appointed by the Central Government and such other members not exceeding fifteen consisting of part-time and full-time members as may be prescribed:

Provided that the terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed:

Provided further that the chairperson and members shall make a declaration to the Central Government in the prescribed form regarding no conflict of interest or lack of independence in respect of his or their appointment:

Provided also that the chairperson and members, who are in full-time employment with National Financial Reporting Authority shall not be associated with any audit firm (including related consultancy firms) during the course of their appointment and two years after ceasing to hold such appointment.

(4) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(a) have the power to investigate, either *suo motu* or on a reference made to it by the Central Government, for such class of bodies corporate or persons, in such manner as may be prescribed into the matters of professional or other misconduct committed by any member or firm of chartered accountants, registered under the Chartered Accountants Act, 1949:

Provided that no other institute or body shall initiate or continue any proceedings in such matters of misconduct where the National Financial Reporting Authority has initiated an investigation under this section;

- 5 of 1908. (b) have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—
- (i) discovery and production of books of account and other documents, at such place and at such time as may be specified by the National Financial Reporting Authority;
 - (ii) summoning and enforcing the attendance of persons and examining them on oath;
 - (iii) inspection of any books, registers and other documents of any person referred to in clause (b) at any place;
 - (iv) issuing commissions for examination of witnesses or documents;
- (c) where professional or other misconduct is proved, have the power to make order for—
- (A) imposing penalty of—
 - (I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and
 - (II) not less than ten lakh rupees, but which may extend to ten times of the fees received, in case of firms;
 - (B) debaring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountant of India referred to in clause (e) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting Authority.
38. of 1949. *Explanation.*—For the purposes of this sub-section, the expression "professional or other misconduct" shall have the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949.
- 38 of 1949. (5) Any person aggrieved by any order of the National Financial Reporting Authority issued under clause (c) of sub-section (4), may prefer an appeal before the Appellate Authority constituted under sub-section (6) in such manner as may be prescribed.
- (6) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an Appellate Authority consisting of a chairperson and not more than two other members, to be appointed by the Central Government, for hearing appeals arising out of the orders of the National Financial Reporting Authority.
- (7) The qualifications for appointment of the chairperson and members of the Appellate Authority, the manner of selection, the terms and conditions of their service and the requirement of the supporting staff and procedure (including places of hearing the appeals, form and manner in which the appeals shall be filed) to be followed by the Appellate Authority shall be such as may be prescribed.
- (8) The fee for filing the appeal shall be such as may be prescribed.
- (9) The officer authorised by the Appellate Authority shall prepare in such form and at such time as may be prescribed its annual report giving a full account of its activities and forward a copy thereof to the Central Government and the Central Government shall cause the annual report to be laid before each House of Parliament.
- (10) The National Financial Reporting Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in such manner as may be prescribed.
- (11) The Central Government may appoint a secretary and such other employees as it may consider necessary for the efficient performance of functions by the National Financial Reporting Authority under this Act and the terms and conditions of service of the secretary and employees shall be such as may be prescribed.
- (12) The head office of the National Financial Reporting Authority shall be at New Delhi and the National Financial Reporting Authority may, meet at such other places in India as it deems fit.

(13) The National Financial Reporting Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India prescribe.

(14) The accounts of the National Financial Reporting Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such accounts as certified by the Comptroller and Auditor-General of India together with the audit report thereon shall be forwarded annually to the Central Government by the National Financial Reporting Authority.

(15) The National Financial Reporting Authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

Central Government to prescribe accounting standards.

133. The Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority.

38 of 1949.

Financial statement, Board's report, etc.

134. (1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon.

(2) The auditors' report shall be attached to every financial statement.

(3) There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

- (a) the extract of the annual return as provided under sub-section (3) of section 92;
- (b) number of meetings of the Board;
- (c) Directors' Responsibility Statement;
- (d) a statement on declaration given by independent directors under sub-section (6) of section 149;
- (e) in case of a company covered under sub-section (1) of section 178, company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178;

(f) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—

- (i) by the auditor in his report; and
- (ii) by the company secretary in practice in his secretarial audit report;
- (g) particulars of loans, guarantees or investments under section 186;
- (h) particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form;
- (i) the state of the company's affairs;
- (j) the amounts, if any, which it proposes to carry to any reserves;
- (k) the amount, if any, which it recommends should be paid by way of dividend;
- (l) material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report;
- (m) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;

(n) a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;

(o) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;

(p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors;

(q) such other matters as may be prescribed.

(4) The report of the Board of Directors to be attached to the financial statement under this section shall, in case of a One Person Company, mean a report containing explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report.

(5) The Directors' Responsibility Statement referred to in clause (c) of sub-section (3) shall state that—

(a) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;

(b) the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;

(c) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;

(d) the directors had prepared the annual accounts on a going concern basis; and

(e) the directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

Explanation.—For the purposes of this clause, the term “internal financial controls” means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information;

(f) the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

(6) The Board's report and any annexures thereto under sub-section (3) shall be signed by its chairperson of the company if he is authorised by the Board and where he is not so authorised, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director.

(7) A signed copy of every financial statement, including consolidated financial statement, if any, shall be issued, circulated or published along with a copy each of—

(a) any notes annexed to or forming part of such financial statement;

(b) the auditor's report; and

(c) the Board's report referred to in sub-section (3).

(8) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Corporate
Social
Responsibility.

135. (1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.

(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

(3) The Corporate Social Responsibility Committee shall,—

(a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and

(c) monitor the Corporate Social Responsibility Policy of the company from time to time.

(4) The Board of every company referred to in sub-section (1) shall,—

(a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and

(b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.

Explanation.—For the purposes of this section “average net profit” shall be calculated in accordance with the provisions of section 198.

Right of
member to
copies of
audited
financial
statement.

136. (1) Without prejudice to the provisions of section 101, a copy of the financial statements, including consolidated financial statements, if any, auditor's report and every other document required by law to be annexed or attached to the financial statements, which are to be laid before a company in its general meeting, shall be sent to every member of the company, to every trustee for the debenture-holder of any debentures issued by the company, and to all persons other than such member or trustee, being the person so entitled, not less than twenty-one days before the date of the meeting:

Provided that in the case of a listed company, the provisions of this sub-section shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered office during working hours for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting unless the shareholders ask for full financial statements:

Provided further that the Central Government may prescribe the manner of circulation of financial statements of companies having such net worth and turnover as may be prescribed:

Provided also that a listed company shall also place its financial statements including consolidated financial statements, if any, and all other documents required to be attached thereto, on its website, which is maintained by or on behalf of the company:

Provided also that every company having a subsidiary or subsidiaries shall,—

(a) place separate audited accounts in respect of each of its subsidiary on its website, if any;

(b) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.

(2) A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated under sub-section (1) at its registered office during business hours.

(3) If any default is made in complying with the provisions of this section, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.

137. (1) A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403:

Copy of financial statement to be filed with Registrar.

Provided that where the financial statements under sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose:

Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under section 403:

Provided also that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year:

Provided also that a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.

(2) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.

(3) If a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2), as the case may be, before the expiry of the period specified in section 403, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

138. (1) Such class or classes of companies as may be prescribed shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

Internal audi

(2) The Central Government may, by rules, prescribe the manner and the intervals in which the internal audit shall be conducted and reported to the Board.

CHAPTER X

AUDIT AND AUDITORS

Appointment
of auditors.

139. (1) Subject to the provisions of this Chapter, every company shall, at the first annual general meeting, appoint an individual or a firm as an auditor who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting and the manner and procedure of selection of auditors by the members of the company at such meeting shall be such as may be prescribed:

Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting:

Provided further that before such appointment is made, the written consent of the auditor to such appointment, and a certificate from him or it that the appointment, if made, shall be in accordance with the conditions as may be prescribed, shall be obtained from the auditor:

Provided also that the certificate shall also indicate whether the auditor satisfies the criteria provided in section 141:

Provided also that the company shall inform the auditor concerned of his or its appointment, and also file a notice of such appointment with the Registrar within fifteen days of the meeting in which the auditor is appointed.

Explanation.—For the purposes of this Chapter, “appointment” includes re-appointment.

(2) No listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint—

(a) an individual as auditor for more than one term of five consecutive years; and

(b) an audit firm as auditor for more than two terms of five consecutive years:

Provided that—

(i) an individual auditor who has completed his term under clause (a) shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;

(ii) an audit firm which has completed its term under clause (b), shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term:

Provided further that as on the date of appointment no audit firm having a common partner or partners to the other audit firm, whose tenure has expired in a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of five years:

Provided also that every company, existing on or before the commencement of this Act which is required to comply with provisions of this sub-section, shall comply with the requirements of this sub-section within three years from the date of commencement of this Act:

Provided also that, nothing contained in this sub-section shall prejudice the right of the company to remove an auditor or the right of the auditor to resign from such office of the company.

(3) Subject to the provisions of this Act, members of a company may resolve to provide that—

(a) in the audit firm appointed by it, the auditing partner and his team shall be rotated at such intervals as may be resolved by members; or

(b) the audit shall be conducted by more than one auditor.

(4) The Central Government may, by rules, prescribe the manner in which the companies shall rotate their auditors in pursuance of sub-section (2).

6 of 2009.

Explanation.—For the purposes of this Chapter, the word “firm” shall include a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008.

(5) Notwithstanding anything contained in sub-section (1), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor-General of India shall, in respect of a financial year, appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of one hundred and eighty days from the commencement of the financial year, who shall hold office till the conclusion of the annual general meeting.

(6) Notwithstanding anything contained in sub-section (1), the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the first annual general meeting.

(7) Notwithstanding anything contained in sub-section (1) or sub-section (5), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next thirty days; and in the case of failure of the Board to appoint such auditor within the next thirty days, it shall inform the members of the company who shall appoint such auditor within the sixty days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting.

(8) Any casual vacancy in the office of an auditor shall—

(i) in the case of a company other than a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Board of Directors within thirty days, but if such casual vacancy is as a result of the resignation of an auditor, such appointment shall also be approved by the company at a general meeting convened within three months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting;

(ii) in the case of a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Comptroller and Auditor-General of India within thirty days:

Provided that in case the Comptroller and Auditor-General of India does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next thirty days.

(9) Subject to the provisions of sub-section (1) and the rules made thereunder, a retiring auditor may be re-appointed at an annual general meeting, if—

(a) he is not disqualified for re-appointment;

(b) he has not given the company a notice in writing of his unwillingness to be re-appointed; and

(c) a special resolution has not been passed at that meeting appointing some other auditor or providing expressly that he shall not be re-appointed.

(10) Where at any annual general meeting, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company.

(11) Where a company is required to constitute an Audit Committee under section 177, all appointments, including the filling of a casual vacancy of an auditor under this section shall be made after taking into account the recommendations of such committee.

140. (1) The auditor appointed under section 139 may be removed from his office before the expiry of his term only by a special resolution of the company, after obtaining the previous approval of the Central Government in that behalf in the prescribed manner:

Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.

Removal,
resignation of
auditor and
giving of
special
notice.

(2) The auditor who has resigned from the company shall file within a period of thirty days from the date of resignation, a statement in the prescribed form with the company and the Registrar, and in case of companies referred to in sub-section (5) of section 139, the auditor shall also file such statement with the Comptroller and Auditor-General of India, indicating the reasons and other facts as may be relevant with regard to his resignation.

(3) If the auditor does not comply with sub-section (2), he or it shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

(4) (i) Special notice shall be required for a resolution at an annual general meeting appointing as auditor a person other than a retiring auditor, or providing expressly that a retiring auditor shall not be re-appointed, except where the retiring auditor has completed a consecutive tenure of five years or, as the case may be, ten years, as provided under sub-section (2) of section 139.

(ii) On receipt of notice of such a resolution, the company shall forthwith send a copy thereof to the retiring auditor.

(iii) Where notice is given of such a resolution and the retiring auditor makes with respect thereto representation in writing to the company (not exceeding a reasonable length) and requests its notification to members of the company, the company shall, unless the representation is received by it too late for it to do so,—

(a) in any notice of the resolution given to members of the company, state the fact of the representation having been made; and

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent, whether before or after the receipt of the representation by the company,

and if a copy of the representation is not sent as aforesaid because it was received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representation shall be read out at the meeting:

Provided that if a copy of representation is not sent as aforesaid, a copy thereof shall be filed with the Registrar:

Provided further that if the Tribunal is satisfied on an application either of the company or of any other aggrieved person that the rights conferred by this sub-section are being abused by the auditor, then, the copy of the representation may not be sent and the representation need not be read out at the meeting.

(5) Without prejudice to any action under the provisions of this Act or any other law for the time being in force, the Tribunal either *suo motu* or on an application made to it by the Central Government or by any person concerned, if it is satisfied that the auditor of a company has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors:

Provided that if the application is made by the Central Government and the Tribunal is satisfied that any change of the auditor is required, it shall within fifteen days of receipt of such application, make an order that he shall not function as an auditor and the Central Government may appoint another auditor in his place:

Provided further that an auditor, whether individual or firm, against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of any company for a period of five years from the date of passing of the order and the auditor shall also be liable for action under section 447.

Explanation I.—It is hereby clarified that the case of a firm, the liability shall be of the firm and that of every partner or partners who acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its director or officers.

Explanation II.—For the purposes of this Chapter the word “auditor” includes a firm of auditors.

141. (1) A person shall be eligible for appointment as an auditor of a company only if he is a chartered accountant:

Eligibility, qualifications and disqualifications of auditors.

Provided that a firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.

(2) Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.

(3) The following persons shall not be eligible for appointment as an auditor of a company, namely:—

6 of 2009.

(a) a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;

(b) an officer or employee of the company;

(c) a person who is a partner, or who is in the employment, of an officer or employee of the company;

(d) a person who, or his relative or partner—

(i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company;

Provided that the relative may hold security or interest in the company of face value not exceeding one thousand rupees or such sum as may be prescribed;

(ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of such amount as may be prescribed; or

(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, for such amount as may be prescribed;

(e) a person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed;

(f) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel;

(g) a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than twenty companies;

(h) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction;

(i) any person whose subsidiary or associate company or any other form of entity, is engaged as on the date of appointment in consulting and specialised services as provided in section 144.

(4) Where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in sub-section (3) after his appointment, he shall vacate his office as such auditor and such vacation shall be deemed to be a casual vacancy in the office of the auditor.

142. (1) The remuneration of the auditor of a company shall be fixed in its general meeting or in such manner as may be determined therein:

Remuneration of auditors.

Provided that the Board may fix remuneration of the first auditor appointed by it.

(2) The remuneration under sub-section (1) shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him but does not include any remuneration paid to him for any other service rendered by him at the request of the company.

Powers and duties of auditors and auditing standards.

143. (1) Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, whether kept at the registered office of the company or at any other place and shall be entitled to require from the officers of the company such information and explanation as he may consider necessary for the performance of his duties as auditor and amongst other matters inquire into the following matters, namely:—

(a) whether loans and advances made by the company on the basis of security have been properly secured and whether the terms on which they have been made are prejudicial to the interests of the company or its members;

(b) whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company;

(c) where the company not being an investment company or a banking company, whether so much of the assets of the company as consist of shares, debentures and other securities have been sold at a price less than that at which they were purchased by the company;

(d) whether loans and advances made by the company have been shown as deposits;

(e) whether personal expenses have been charged to revenue account;

(f) where it is stated in the books and documents of the company that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance sheet is correct, regular and not misleading;

Provided that the auditor of a company which is a holding company shall also have the right of access to the records of all its subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries.

(2) The auditor shall make a report to the members of the company on the accounts examined by him and on every financial statements which are required by or under this Act to be laid before the company in general meeting and the report shall after taking into account the provisions of this Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of this Act or any rules made thereunder or under any order made under sub-section (1) and to the best of his information and knowledge, the said accounts, financial statements give a true and fair view of the state of the company's affairs as at the end of its financial year and profit or loss and cash flow for the year and such other matters as may be prescribed.

(3) The auditor's report shall also state—

(a) whether he has sought and obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit and if not, the details thereof and the effect of such information on the financial statements;

(b) whether, in his opinion, proper books of account as required by law have been kept by the company so far as appears from his examination of those books and proper returns adequate for the purposes of his audit have been received from branches not visited by him;

(c) whether the report on the accounts of any branch office of the company audited under sub-section (8) by a person other than the company's auditor has been sent to him under the proviso to that sub-section and the manner in which he has dealt with it in preparing his report;

(d) whether the company's balance sheet and profit and loss account dealt with in the report are in agreement with the books of account and returns;

(e) whether, in his opinion, the financial statements comply with the accounting standards;

(f) the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;

(g) whether any director is disqualified from being appointed as a director under sub-section (2) of section 164;

(h) any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith;

(i) whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;

(j) such other matters as may be prescribed.

(4) Where any of the matters required to be included in the audit report under this section is answered in the negative or with a qualification, the report shall state the reasons therefor.

(5) In the case of a Government company, the Comptroller and Auditor-General of India shall appoint the auditor under sub-section (5) or sub-section (7) of section 139 and direct such auditor the manner in which the accounts of the Government company are required to be audited and thereupon the auditor so appointed shall submit a copy of the audit report to the Comptroller and Auditor-General of India which, among other things, include the directions, if any, issued by the Comptroller and Auditor-General of India, the action taken thereon and its impact on the accounts and financial statement of the company.

(6) The Comptroller and Auditor-General of India shall within sixty days from the date of receipt of the audit report under sub-section (5) have a right to,—

(a) conduct a supplementary audit of the financial statement of the company by such person or persons as he may authorise in this behalf; and for the purposes of such audit, require information or additional information to be furnished to any person or persons, so authorised, on such matters, by such person or persons, and in such form, as the Comptroller and Auditor-General of India may direct; and

(b) comment upon or supplement such audit report:

Provided that any comments given by the Comptroller and Auditor-General of India upon, or supplement to, the audit report shall be sent by the company to every person entitled to copies of audited financial statements under sub section (1) of section 136 and also be placed before the annual general meeting of the company at the same time and in the same manner as the audit report.

(7) Without prejudice to the provisions of this Chapter, the Comptroller and Auditor-General of India may, in case of any company covered under sub-section (5) or sub-section (7) of section 139, if he considers necessary, by an order, cause test audit to be conducted of the accounts of such company and the provisions of section 19A of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, shall apply to the report of such test audit.

56 of 1971.

(8) Where a company has a branch office, the accounts of that office shall be audited either by the auditor appointed for the company (herein referred to as the company's auditor) under this Act or by any other person qualified for appointment as an auditor of the company under this Act and appointed as such under section 139, or where the branch office is situated in a country outside India, the accounts of the branch office shall be audited either by the company's auditor or by an accountant or by any other person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country and the duties and powers of the company's auditor with reference to the audit of the branch and the branch auditor, if any, shall be such as may be prescribed:

Provided that the branch auditor shall prepare a report on the accounts of the branch examined by him and send it to the auditor of the company who shall deal with it in his report in such manner as he considers necessary.

(9) Every auditor shall comply with the auditing standards.

(10) The Central Government may prescribe the standards of auditing or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority:

38 of 1949.

Provided that until any auditing standards are notified, any standard or standards of auditing specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing standards.

(11) The Central Government may, in consultation with the National Financial Reporting Authority, by general or special order, direct, in respect of such class or description of companies, as may be specified in the order, that the auditor's report shall also include a statement on such matters as may be specified therein.

(12) Notwithstanding anything contained in this section, if an auditor of a company, in the course of the performance of his duties as auditor, has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government within such time and in such manner as may be prescribed.

(13) No duty to which an auditor of a company may be subject shall be regarded as having been contravened by reason of his reporting the matter referred to in sub-section (12) if it is done in good faith.

(14) The provisions of this section shall *mutatis mutandis* apply to—

(a) the cost accountant in practice conducting cost audit under section 148; or

(b) the company secretary in practice conducting secretarial audit under section 204.

(15) If any auditor, cost accountant or company secretary in practice do not comply with the provisions of sub-section (12), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

Auditor not
to render
certain
services.

144. An auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company, namely:—

- (a) accounting and book keeping services;
- (b) internal audit;
- (c) design and implementation of any financial information system;
- (d) actuarial services;
- (e) investment advisory services;
- (f) investment banking services;
- (g) rendering of outsourced financial services;
- (h) management services; and
- (i) any other kind of services as may be prescribed:

Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Act shall comply with the provisions of this section before the closure of the first financial year after the date of such commencement.

Explanation.—For the purposes of this sub-section, the term “directly or indirectly” shall include rendering of services by the auditor,—

(i) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;

(ii) in case of auditor being a firm, either itself or through any of its partners or through its parent, subsidiary or associate entity or through any other entity, whatsoever, in which the firm or any partner of the firm has significant influence or control, or whose name or trade mark or brand is used by the firm or any of its partners.

Auditor to
sign audit
reports, etc.

145. The person appointed as an auditor of the company shall sign the auditor's report or sign or certify any other document of the company in accordance with the provisions of sub-section (2) of section 141, and the qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor's report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

146. All notices of, and other communications relating to, any general meeting shall be forwarded to the auditor of the company, and the auditor shall, unless otherwise exempted by the company, attend either by himself or through his authorised representative, who shall also be qualified to be an auditor, any general meeting and shall have right to be heard at such meeting on any part of the business which concerns him as the auditor.

Auditors to attend general meeting.

147. (1) If any of the provisions of sections 139 to 146 (both inclusive) is contravened, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both.

Punishment for contravention.

(2) If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees:

Provided that if an auditor has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

(3) Where an auditor has been convicted under sub-section (2), he shall be liable to—

(i) refund the remuneration received by him to the company; and

(ii) pay for damages to the company, statutory bodies or authorities or to any other persons for loss arising out of incorrect or misleading statements of particulars made in his audit report.

(4) The Central Government shall, by notification, specify any statutory body or authority or an officer for ensuring prompt payment of damages to the company or the persons under clause (ii) of sub-section (3) and such body, authority or officer shall after payment of damages to such company or persons file a report with the Central Government in respect of making such damages in such manner as may be specified in the said notification.

(5) Where, in case of audit of a company being conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.

148. (1) Notwithstanding anything contained in this Chapter, the Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies:

Central Government to specify audit of items of cost in respect of certain companies.

Provided that the Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.

(2) If the Central Government is of the opinion, that it is necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under sub-section (1) and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.

(3) The audit under sub-section (2) shall be conducted by a Cost Accountant in practice who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:

Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:

Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.

Explanation.—For the purposes of this sub-section, the expression “cost auditing standards” mean such standards as are issued by the Institute of Cost and Works Accountants of India, constituted under the Cost and Works Accountants Act, 1959, with the approval of the Central Government.

23 of 1959.

(4) An audit conducted under this section shall be in addition to the audit conducted under section 143.

(5) The qualifications, disqualifications, rights, duties and obligations applicable to auditors under this Chapter shall, so far as may be applicable, apply to a cost auditor appointed under this section and it shall be the duty of the company to give all assistance and facilities to the cost auditor appointed under this section for auditing the cost records of the company:

Provided that the report on the audit of cost records shall be submitted by the cost accountant in practice to the Board of Directors of the company.

(6) A company shall within thirty days from the date of receipt of a copy of the cost audit report prepared in pursuance of a direction under sub-section (2) furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

(7) If, after considering the cost audit report referred to under this section and the information and explanation furnished by the company under sub-section (6), the Central Government is of the opinion that any further information or explanation is necessary, it may call for such further information and explanation and the company shall furnish the same within such time as may be specified by that Government.

(8) If any default is made in complying with the provisions of this section,—

(a) the company and every officer of the company who is in default shall be punishable in the manner as provided in sub-section (1) of section 147;

(b) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-sections (2) to (4) of section 147.

CHAPTER XI

APPOINTMENT AND QUALIFICATIONS OF DIRECTORS

Company to have Board of Directors.

149. (1) Every company shall have a Board of Directors consisting of individuals as directors and shall have—

(a) a minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a One Person Company; and

(b) a maximum of fifteen directors:

Provided that a company may appoint more than fifteen directors after passing a special resolution:

Provided further that such class or classes of companies as may be prescribed, shall have at least one woman director.

(2) Every company existing on or before the date of commencement of this Act shall within one year from such commencement comply with the requirements of the provisions of sub-section (1).

(3) Every company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year.

(4) Every listed public company shall have at least one-third of the total number of directors as independent directors and the Central Government may prescribe the minimum number of independent directors in case of any class or classes of public companies.

Explanation.—For the purposes of this sub-section, any fraction contained in such one-third number shall be rounded off as one.

(5) Every company existing on or before the date of commencement of this Act shall, within one year from such commencement or from the date of notification of the rules in this regard as may be applicable, comply with the requirements of the provisions of sub-section (4).

(6) An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director,—

(a) who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;

(b) (i) who is or was not a promoter of the company or its holding, subsidiary or associate company;

(ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;

(c) who has or had no pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;

(d) none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;

(e) who, neither himself nor any of his relatives—

(i) holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;

(ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—

(A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or

(B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;

(iii) holds together with his relatives two per cent. or more of the total voting power of the company; or

(iv) is a Chief Executive or director, by whatever name called, of any non-profit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company; or

(f) who possesses such other qualifications as may be prescribed.

(7) Every independent director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in sub-section (6).

Explanation.—For the purposes of this section, “nominee director” means a director nominated by any financial institution in pursuance of the provisions of any law for the time being in force, or of any agreement, or appointed by any Government, or any other person to represent its interests.

(8) The company and independent directors shall abide by the provisions specified in Schedule IV.

(9) Notwithstanding anything contained in any other provision of this Act, but subject to the provisions of sections 197 and 198, an independent director shall not be entitled to any stock option and may receive remuneration by way of fee provided under sub-section (5) of section 197, reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.

(10) Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for re-appointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.

(11) Notwithstanding anything contained in sub-section (10), no independent director shall hold office for more than two consecutive terms, but such independent director shall be eligible for appointment after the expiration of three years of ceasing to become an independent director:

Provided that an independent director shall not, during the said period of three years, be appointed in or be associated with the company in any other capacity, either directly or indirectly.

Explanation.—For the purposes of sub-sections (10) and (11), any tenure of an independent director on the date of commencement of this Act shall not be counted as a term under those sub-sections.

(12) Notwithstanding anything contained in this Act,—

(i) an independent director;

(ii) a non-executive director not being promoter or key managerial personnel,

shall be held liable, only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.

(13) The provisions of sub-sections (6) and (7) of section 152 in respect of retirement of directors by rotation shall not be applicable to appointment of independent directors.

Manner of selection of independent directors and maintenance of databank of independent directors.

150. (1) Subject to the provisions contained in sub-section (5) of section 149, an independent director may be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, maintained by any body, institute or association, as may be notified by the Central Government, having expertise in creation and maintenance of such data bank and put on their website for the use by the company making the appointment of such directors:

Provided that responsibility of exercising due diligence before selecting a person from the data bank referred to above, as an independent director shall lie with the company making such appointment.

(2) The appointment of independent director shall be approved by the company in general meeting as provided in sub-section (2) of section 152 and the explanatory statement annexed to the notice of the general meeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment as independent director.

(3) The data bank referred to in sub-section (1), shall create and maintain data of persons willing to act as independent director in accordance with such rules as may be prescribed.

(4) The Central Government may prescribe the manner and procedure of selection of independent directors who fulfil the qualifications and requirements specified under section 149.

Appointment of director elected by small shareholders.

151. A listed company may have one director elected by such small shareholders in such manner and with such terms and conditions as may be prescribed.

Explanation.—For the purposes of this section “small shareholders” means a shareholder holding shares of nominal value of not more than twenty thousand rupees or such other sum as may be prescribed.

152. (1) Where no provision is made in the articles of a company for the appointment of the first director, the subscribers to the memorandum who are individuals shall be deemed to be the first directors of the company until the directors are duly appointed and in case of a One Person Company an individual being member shall be deemed to be its first director until the director or directors are duly appointed by the member in accordance with the provisions of this section.

Appointment
of directors.

(2) Save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting.

(3) No person shall be appointed as a director of a company unless he has been allotted the Director Identification Number under section 154.

(4) Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification Number and a declaration that he is not disqualified to become a director under this Act.

(5) A person appointed as a director shall not act as a director unless he gives his consent to hold the office as director and such consent has been filed with the Registrar within thirty days of his appointment in such manner as may be prescribed:

Provided that in the case of appointment of an independent director in the general meeting, an explanatory statement for such appointment, annexed to the notice for the general meeting, shall include a statement that in the opinion of the Board, he fulfils the conditions specified in this Act for such an appointment.

(6) (a) Unless the articles provide for the retirement of all directors at every annual general meeting, not less than two-thirds of the total number of directors of a public company shall—

(i) be persons whose period of office is liable to determination by retirement of directors by rotation; and

(ii) save as otherwise expressly provided in this Act, be appointed by the company in general meeting.

(b) The remaining directors in the case of any such company shall, in default of, and subject to any regulations in the articles of the company, also be appointed by the company in general meeting:

(c) At the first annual general meeting of a public company held next after the date of the general meeting at which the first directors are appointed in accordance with clauses (a) and (b) and at every subsequent annual general meeting, one-third of such of the directors for the time being as are liable to retire by rotation, or if their number is neither three nor a multiple of three, then, the number nearest to one-third, shall retire from office.

(d) The directors to retire by rotation at every annual general meeting shall be those who have been longest in office since their last appointment, but as between persons who became directors on the same day, those who are to retire shall, in default of and subject to any agreement among themselves, be determined by lot.

(e) At the annual general meeting at which a director retires as aforesaid, the company may fill up the vacancy by appointing the retiring director or some other person thereto.

Explanation.—For the purposes of this sub-section, “total number of directors” shall not include independent directors, whether appointed under this Act or any other law for the time being in force, on the Board of a company.

(7) (a) If the vacancy of the retiring director is not so filled-up and the meeting has not expressly resolved not to fill the vacancy, the meeting shall stand adjourned till the same day in the next week, at the same time and place, or if that day is a national holiday, till the next succeeding day which is not a holiday, at the same time and place.

(b) If at the adjourned meeting also, the vacancy of the retiring director is not filled up and that meeting also has not expressly resolved not to fill the vacancy, the retiring director shall be deemed to have been re-appointed at the adjourned meeting, unless—

(i) at that meeting or at the previous meeting a resolution for the re-appointment of such director has been put to the meeting and lost;

(ii) the retiring director has, by a notice in writing addressed to the company or its Board of directors, expressed his unwillingness to be so re-appointed;

(iii) he is not qualified or is disqualified for appointment;

(iv) a resolution, whether special or ordinary, is required for his appointment or re-appointment by virtue of any provisions of this Act; or

(v) section 162 is applicable to the case.

Explanation.—For the purposes of this section and section 160, the expression “retiring director” means a director retiring by rotation.

Application
for allotment
of Director
Identification
Number.

153. Every individual intending to be appointed as director of a company shall make an application for allotment of Director Identification Number to the Central Government in such form and manner and along with such fees as may be prescribed.

Allotment of
Director
Identification
Number.

154. The Central Government shall, within one month from the receipt of the application under section 153, allot a Director Identification Number to an applicant in such manner as may be prescribed.

Prohibition to
obtain more
than one
Director
Identification
Number.

155. No individual, who has already been allotted a Director Identification Number under section 154, shall apply for, obtain or possess another Director Identification Number.

Director to
intimate
Director
Identification
Number.

156. Every existing director shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director.

Company to
inform
Director
Identification
Number to
Registrar.

157. (1) Every company shall, within fifteen days of the receipt of intimation under section 156, furnish the Director Identification Number of all its directors to the Registrar or any other officer or authority as may be specified by the Central Government with such fees as may be prescribed or with such additional fees as may be prescribed within the time specified under section 403 and every such intimation shall be furnished in such form and manner as may be prescribed.

(2) If a company fails to furnish Director Identification Number under sub-section (1), before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

158. Every person or company, while furnishing any return, information or particulars as are required to be furnished under this Act, shall mention the Director Identification Number in such return, information or particulars in case such return, information or particulars relate to the director or contain any reference of any director.

Obligation to indicate Director Identification Number.

159. If any individual or director of a company, contravenes any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which the contravention continues.

Punishment for contravention.

160. (1) A person who is not a retiring director in terms of section 152 shall, subject to the provisions of this Act, be eligible for appointment to the office of a director at any general meeting, if he, or some member intending to propose him as a director, has, not less than fourteen days before the meeting, left at the registered office of the company, a notice in writing under his hand signifying his candidature as a director or, as the case may be, the intention of such member to propose him as a candidate for that office, along with the deposit of one lakh rupees or such higher amount as may be prescribed which shall be refunded to such person or, as the case may be, to the member, if the person proposed gets elected as a director or gets more than twenty-five per cent. of total valid votes cast either on show of hands or on poll on such resolution.

Right of persons other than retiring directors to stand for directorship.

(2) The company shall inform its members of the candidature of a person for the office of director under sub-section (1) in such manner as may be prescribed.

161. (1) The articles of a company may confer on its Board of Directors the power to appoint any person, other than a person who fails to get appointed as a director in a general meeting, as an additional director at any time who shall hold office up to the date of the next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier.

Appointment of additional director, alternate director and nominee director.

(2) The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company, to act as an alternate director for a director during his absence for a period of not less than three months from India:

Provided that no person shall be appointed as an alternate director for an independent director unless he is qualified to be appointed as an independent director under the provisions of this Act:

Provided further that an alternate director shall not hold office for a period longer than that permissible to the director in whose place he has been appointed and shall vacate the office if and when the director in whose place he has been appointed returns to India:

Provided also that if the term of office of the original director is determined before he so returns to India, any provision for the automatic re-appointment of retiring directors in default of another appointment shall apply to the original, and not to the alternate director.

(3) Subject to the articles of a company, the Board may appoint any person as a director nominated by any institution in pursuance of the provisions of any law for the time being in force or of any agreement or by the Central Government or the State Government by virtue of its shareholding in a Government company.

(4) In the case of a public company, if the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board:

Provided that any person so appointed shall hold office only up to the date up to which the director in whose place he is appointed would have held office if it had not been vacated.

Appointment of directors to be voted individually.

162. (1) At a general meeting of a company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be moved unless a proposal to move such a motion has first been agreed to at the meeting without any vote being cast against it.

(2) A resolution moved in contravention of sub-section (1) shall be void, whether or not any objection was taken when it was moved.

(3) A motion for approving a person for appointment, or for nominating a person for appointment as a director, shall be treated as a motion for his appointment.

Option to adopt principle of proportional representation for appointment of directors.

163. Notwithstanding anything contained in this Act, the articles of a company may provide for the appointment of not less than two-thirds of the total number of the directors of a company in accordance with the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise and such appointments may be made once in every three years and casual vacancies of such directors shall be filled as provided in sub-section (4) of section 161.

Disqualifications for appointment of director.

164. (1) A person shall not be eligible for appointment as a director of a company, if—

(a) he is of unsound mind and stands so declared by a competent court;

(b) he is an undischarged insolvent;

(c) he has applied to be adjudicated as an insolvent and his application is pending;

(d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence:

Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company;

(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;

(f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call;

(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or

(h) he has not complied with sub-section (3) of section 152.

(2) No person who is or has been a director of a company which—

(a) has not filed financial statements or annual returns for any continuous period of three financial years; or

(b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,

shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so.

(3) A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2):

Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall not take effect—

(i) for thirty days from the date of conviction or order of disqualification;

(ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed off; or

(iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed off.

165. (1) No person, after the commencement of this Act, shall hold office as a director, including any alternate directorship, in more than twenty companies at the same time:

Number of
directorships.

Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.

Explanation.— For reckoning the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a public company shall be included.

(2) Subject to the provisions of sub-section (1), the members of a company may, by special resolution, specify any lesser number of companies in which a director of the company may act as directors.

(3) Any person holding office as director in companies more than the limits as specified in sub-section (1), immediately before the commencement of this Act shall, within a period of one year from such commencement,—

(a) choose not more than the specified limit of those companies, as companies in which he wishes to continue to hold the office of director;

(b) resign his office as director in the other remaining companies; and

(c) intimate the choice made by him under clause (a), to each of the companies in which he was holding the office of director before such commencement and to the Registrar having jurisdiction in respect of each such company.

(4) Any resignation made in pursuance of clause (b) of sub-section (3) shall become effective immediately on the despatch thereof to the company concerned.

(5) No such person shall act as director in more than the specified number of companies,—

(a) after despatching the resignation of his office as director or non-executive director thereof, in pursuance of clause (b) of sub-section (3); or

(b) after the expiry of one year from the commencement of this Act,

whichever is earlier.

(6) If a person accepts an appointment as a director in contravention of sub-section (1), he shall be punishable with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees for every day after the first during which the contravention continues.

Duties of directors.

166. (1) Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.

(2) A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.

(3) A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

(4) A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.

(5) A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.

(6) A director of a company shall not assign his office and any assignment so made shall be void.

(7) If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

167. (1) The office of a director shall become vacant in case—

Vacation of
office of
director.

- (a) he incurs any of the disqualifications specified in section 164;
- (b) he absents himself from all the meetings of the Board of Directors held during a period of twelve months with or without seeking leave of absence of the Board;
- (c) he acts in contravention of the provisions of section 184 relating to entering into contracts or arrangements in which he is directly or indirectly interested;
- (d) he fails to disclose his interest in any contract or arrangement in which he is directly or indirectly interested, in contravention of the provisions of section 184;
- (e) he becomes disqualified by an order of a court or the Tribunal;
- (f) he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than six months:

Provided that the office shall be vacated by the director even if he has filed an appeal against the order of such court;

- (g) he is removed in pursuance of the provisions of this Act;
- (h) he, having been appointed a director by virtue of his holding any office or other employment in the holding, subsidiary or associate company, ceases to hold such office or other employment in that company.

(2) If a person, functions as a director even when he knows that the office of director held by him has become vacant on account of any of the disqualifications specified in sub-section (1), he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

(3) Where all the directors of a company vacate their offices under any of the disqualifications specified in sub-section (1), the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in the general meeting.

(4) A private company may, by its articles, provide any other ground for the vacation of the office of a director in addition to those specified in sub-section (1).

168. (1) A director may resign from his office by giving a notice in writing to the company and the Board shall on receipt of such notice take note of the same and the company shall intimate the Registrar in such manner, within such time and in such form as may be prescribed and shall also place the fact of such resignation in the report of directors laid in the immediately following general meeting by the company:

Resignation
of
director.

Provided that a director shall also forward a copy of his resignation along with detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed.

(2) The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later:

Provided that the director who has resigned shall be liable even after his resignation for the offences which occurred during his tenure.

(3) Where all the directors of a company resign from their offices, or vacate their offices under section 167, the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in general meeting.

Removal of
directors.

169. (1) A company may, by ordinary resolution, remove a director, not being a director appointed by the Tribunal under section 242, before the expiry of the period of his office after giving him a reasonable opportunity of being heard:

Provided that nothing contained in this sub-section shall apply where the company has availed itself of the option given to it under section 163 to appoint not less than two-thirds of the total number of directors according to the principle of proportional representation.

(2) A special notice shall be required of any resolution, to remove a director under this section, or to appoint somebody in place of a director so removed, at the meeting at which he is removed.

(3) On receipt of notice of a resolution to remove a director under this section, the company shall forthwith send a copy thereof to the director concerned, and the director, whether or not he is a member of the company, shall be entitled to be heard on the resolution at the meeting.

(4) Where notice has been given of a resolution to remove a director under this section and the director concerned makes with respect thereto representation in writing to the company and requests its notification to members of the company, the company shall, if the time permits it to do so,—

(a) in any notice of the resolution given to members of the company, state the fact of the representation having been made; and

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representation by the company),

and if a copy of the representation is not sent as aforesaid due to insufficient time or for the company's default, the director may without prejudice to his right to be heard orally require that the representation shall be read out at the meeting:

Provided that copy of the representation need not be sent out and the representation need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the Tribunal is satisfied that the rights conferred by this sub-section are being abused to secure needless publicity for defamatory matter; and the Tribunal may order the company's costs on the application to be paid in whole or in part by the director notwithstanding that he is not a party to it.

(5) A vacancy created by the removal of a director under this section may, if he had been appointed by the company in general meeting or by the Board, be filled by the appointment of another director in his place at the meeting at which he is removed, provided special notice of the intended appointment has been given under sub-section (2).

(6) A director so appointed shall hold office till the date up to which his predecessor would have held office if he had not been removed.

(7) If the vacancy is not filled under sub-section (5), it may be filled as a casual vacancy in accordance with the provisions of this Act:

Provided that the director who was removed from office shall not be re-appointed as a director by the Board of Directors.

(8) Nothing in this section shall be taken—

(a) as depriving a person removed under this section of any compensation or damages payable to him in respect of the termination of his appointment as director as per the terms of contract or terms of his appointment as director, or of any other appointment terminating with that as director; or

(b) as derogating from any power to remove a director under other provisions of this Act.

170. (1) Every company shall keep at its registered office a register containing such particulars of its directors and key managerial personnel as may be prescribed, which shall include the details of securities held by each of them in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies.

Register of directors and key managerial personnel and their shareholding.

(2) A return containing such particulars and documents as may be prescribed, of the directors and the key managerial personnel shall be filed with the Registrar within thirty days from the appointment of every director and key managerial personnel, as the case may be, and within thirty days of any change taking place.

171. (1) The register kept under sub-section (1) of section 170,—

Members' right to inspect.

(a) shall be open for inspection during business hours and the members shall have a right to take extracts therefrom and copies thereof, on a request by the members, be provided to them free of cost within thirty days; and

(b) shall also be kept open for inspection at every annual general meeting of the company and shall be made accessible to any person attending the meeting.

(2) If any inspection as provided in clause (a) of sub-section (1) is refused, or if any copy required under that clause is not sent within thirty days from the date of receipt of such request, the Registrar shall on an application made to him order immediate inspection and supply of copies required thereunder.

Punishment.

172. If a company contravenes any of the provisions of this Chapter and for which no specific punishment is provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

CHAPTER XII

MEETINGS OF BOARD AND ITS POWERS

Meetings of Board.

173. (1) Every company shall hold the first meeting of the Board of Directors within thirty days of the date of its incorporation and thereafter hold a minimum number of four meetings of its Board of Directors every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board:

Provided that the Central Government may, by notification, direct that the provisions of this sub-section shall not apply in relation to any class or description of companies or shall apply subject to such exceptions, modifications or conditions as may be specified in the notification.

(2) The participation of directors in a meeting of the Board may be either in person or through video conferencing or other audio visual means, as may be prescribed, which are capable of recording and recognising the participation of the directors and of recording and storing the proceedings of such meetings along with date and time:

Provided that the Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means.

(3) A meeting of the Board shall be called by giving not less than seven days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means:

Provided that a meeting of the Board may be called at shorter notice to transact urgent business subject to the condition that at least one independent director, if any, shall be present at the meeting:

Provided further that in case of absence of independent directors from such a meeting of the Board, decisions taken at such a meeting shall be circulated to all the directors and shall be final only on ratification thereof by at least one independent director, if any.

(4) Every officer of the company whose duty is to give notice under this section and who fails to do so shall be liable to a penalty of twenty-five thousand rupees.

(5) A One Person Company, small company and dormant company shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days:

Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors.

174. (1) The quorum for a meeting of the Board of Directors of a company shall be one-third of its total strength or two directors, whichever is higher, and the participation of the directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum under this sub-section.

Quorum for meetings of Board.

(2) The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company and for no other purpose.

(3) Where at any time the number of interested directors exceeds or is equal to two-thirds of the total strength of the Board of Directors, the number of directors who are not interested directors and present at the meeting, being not less than two, shall be the quorum during such time.

Explanation.—For the purposes of this sub-section, “interested director” means a director within the meaning of sub-section (2) of section 184.

(4) Where a meeting of the Board could not be held for want of quorum, then, unless the articles of the company otherwise provide, the meeting shall automatically stand adjourned to the same day at the same time and place in the next week or if that day is a national holiday, till the next succeeding day, which is not a national holiday, at the same time and place.

Explanation.—For the purposes of this section,—

(i) any fraction of a number shall be rounded off as one;

(ii) “total strength” shall not include directors whose places are vacant.

175. (1) No resolution shall be deemed to have been duly passed by the Board or by a committee thereof by circulation, unless the resolution has been circulated in draft, together with the necessary papers, if any, to all the directors, or members of the committee, as the case may be, at their addresses registered with the company in India by hand delivery or by post or by courier, or through such electronic means as may be prescribed and has been approved by a majority of the directors or members, who are entitled to vote on the resolution:

Passing of resolution by circulation.

Provided that, where not less than one-third of the total number of directors of the company for the time being require that any resolution under circulation must be decided at a meeting, the chairperson shall put the resolution to be decided at a meeting of the Board.

(2) A resolution under sub-section (1) shall be noted at a subsequent meeting of the Board or the committee thereof, as the case may be, and made part of the minutes of such meeting.

176. No act done by a person as a director shall be deemed to be invalid, notwithstanding that it was subsequently noticed that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in this Act or in the articles of the company:

Defects in appointment of directors not to invalidate actions taken.

Provided that nothing in this section shall be deemed to give validity to any act done by the director after his appointment has been noticed by the company to be invalid or to have terminated.

Audit
Committee.

177. (1) The Board of Directors of every listed company and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.

(2) The Audit Committee shall consist of a minimum of three directors with independent directors forming a majority:

Provided that majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.

(3) Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be reconstituted in accordance with sub-section (2).

(4) Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, *inter alia*, include,—

(i) the recommendation for appointment, remuneration and terms of appointment of auditors of the company;

(ii) review and monitor the auditor's independence and performance, and effectiveness of audit process;

(iii) examination of the financial statement and the auditors' report thereon;

(iv) approval or any subsequent modification of transactions of the company with related parties;

(v) scrutiny of inter-corporate loans and investments;

(vi) valuation of undertakings or assets of the company, wherever it is necessary;

(vii) evaluation of internal financial controls and risk management systems;

(viii) monitoring the end use of funds raised through public offers and related matters.

(5) The Audit Committee may call for the comments of the auditors about internal control systems, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company.

(6) The Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (4) or referred to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.

(7) The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote.

(8) The Board's report under sub-section (3) of section 134 shall disclose the composition of an Audit Committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons therefor.

(9) Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.

(10) The vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases:

Provided that the details of establishment of such mechanism shall be disclosed by the company on its website, if any, and in the Board's report.

178. (1) The Board of Directors of every listed company and such other class or classes of companies, as may be prescribed shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive directors out of which not less than one-half shall be independent directors:

Nomination
and
Remuneration
Committee
and
Stakeholders
Relationship
Committee.

Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.

(2) The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and shall carry out evaluation of every director's performance.

(3) The Nomination and Remuneration Committee shall formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, key managerial personnel and other employees.

(4) The Nomination and Remuneration Committee shall, while formulating the policy under sub-section (3) ensure that—

(a) the level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully;

(b) relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and

(c) remuneration to directors, key managerial personnel and senior management involves a balance between fixed and incentive pay reflecting short and long-term performance objectives appropriate to the working of the company and its goals:

Provided that such policy shall be disclosed in the Board's report.

(5) The Board of Directors of a company which consists of more than one thousand shareholders, debenture-holders, deposit-holders and any other security holders at any time during a financial year shall constitute a Stakeholders Relationship Committee consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board.

(6) The Stakeholders Relationship Committee shall consider and resolve the grievances of security holders of the company.

(7) The chairperson of each of the committees constituted under this section or, in his absence, any other member of the committee authorised by him in this behalf shall attend the general meetings of the company.

(8) In case of any contravention of the provisions of section 177 and this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both:

Provided that non-consideration of resolution of any grievance by the Stakeholders Relationship Committee in good faith shall not constitute a contravention of this section.

Explanation.—The expression “senior management” means personnel of the company who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors, including the functional heads.

Powers of Board.

179. (1) The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do:

Provided that in exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in this Act, or in the memorandum or articles, or in any regulations not inconsistent therewith and duly made thereunder, including regulations made by the company in general meeting:

Provided further that the Board shall not exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting.

(2) No regulation made by the company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

(3) The Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely:—

- (a) to make calls on shareholders in respect of money unpaid on their shares;
- (b) to authorise buy-back of securities under section 68;
- (c) to issue securities, including debentures, whether in or outside India;
- (d) to borrow monies;
- (e) to invest the funds of the company;
- (f) to grant loans or give guarantee or provide security in respect of loans;
- (g) to approve financial statement and the Board's report;
- (h) to diversify the business of the company;
- (i) to approve amalgamation, merger or reconstruction;
- (j) to take over a company or acquire a controlling or substantial stake in another company;
- (k) any other matter which may be prescribed:

Provided that the Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the manager or any other principal officer of the company or in the case of a branch office of the company, the principal officer of the branch office, the powers specified in clauses (d) to (j) on such conditions as it may specify:

Provided further that the acceptance by a banking company in the ordinary course of its business of deposits of money from the public repayable on demand or otherwise and withdrawable by cheque, draft, order or otherwise, or the placing of monies on deposit by a banking company with another banking company on such conditions as the Board may prescribe, shall not be deemed to be a borrowing of monies or, as the case may be, a making of loans by a banking company within the meaning of this section.

Explanation I.—Nothing in clause (d) shall apply to borrowings by a banking company from other banking companies or from the Reserve Bank of India, the State Bank of India or any other banks established by or under any Act.

Explanation II.—In respect of dealings between a company and its bankers, the exercise by the company of the power specified in clause (d) shall mean the arrangement made by the company with its bankers for the borrowing of money by way of overdraft or cash credit or otherwise and not the actual day-to-day operation on overdraft, cash credit or other accounts by means of which the arrangement so made is actually availed of.

(4) Nothing in this section shall be deemed to affect the right of the company in general meeting to impose restrictions and conditions on the exercise by the Board of any of the powers specified in this section.

180. (1) The Board of Directors of a company shall exercise the following powers only with the consent of the company by a special resolution, namely:—

Restrictions
on powers of
Board.

(a) to sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings.

Explanation.—For the purposes of this clause,—

(i) “undertaking” shall mean an undertaking in which the investment of the company exceeds twenty per cent. of its net worth as per the audited balance sheet of the preceding financial year or an undertaking which generates twenty per cent. of the total income of the company during the previous financial year;

(ii) the expression “substantially the whole of the undertaking” in any financial year shall mean twenty per cent. or more of the value of the undertaking as per the audited balance sheet of the preceding financial year;

(b) to invest otherwise in trust securities the amount of compensation received by it as a result of any merger or amalgamation;

(c) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary loans obtained from the company’s bankers in the ordinary course of business:

Provided that the acceptance by a banking company, in the ordinary course of its business, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise, shall not be deemed to be a borrowing of monies by the banking company within the meaning of this clause.

Explanation.—For the purposes of this clause, the expression “temporary loans” means loans repayable on demand or within six months from the date of the loan such as short-term, cash credit arrangements, the discounting of bills and the issue of other short-term loans of a seasonal character, but does not include loans raised for the purpose of financial expenditure of a capital nature;

(d) to remit, or give time for the repayment of, any debt due from a director.

(2) Every special resolution passed by the company in general meeting in relation to the exercise of the powers referred to in clause (c) of sub-section (1) shall specify the total amount up to which monies may be borrowed by the Board of Directors.

(3) Nothing contained in clause (a) of sub-section (1) shall affect—

(a) the title of a buyer or other person who buys or takes on lease any property, investment or undertaking as is referred to in that clause, in good faith; or

(b) the sale or lease of any property of the company where the ordinary business of the company consists of, or comprises, such selling or leasing.

(4) Any special resolution passed by the company consenting to the transaction as is referred to in clause (a) of sub-section (1) may stipulate such conditions as may be specified in such resolution, including conditions regarding the use, disposal or investment of the sale proceeds which may result from the transactions:

Provided that this sub-section shall not be deemed to authorise the company to effect any reduction in its capital except in accordance with the provisions contained in this Act.

(5) No debt incurred by the company in excess of the limit imposed by clause (c) of sub-section (1) shall be valid or effectual, unless the lender proves that he advanced the loan in good faith and without knowledge that the limit imposed by that clause had been exceeded.

Company to contribute to *bona fide* and charitable funds, etc.

181. The Board of Directors of a company may contribute to *bona fide* charitable and other funds:

Provided that prior permission of the company in general meeting shall be required for such contribution in case any amount the aggregate of which, in any financial year, exceed five per cent. of its average net profits for the three immediately preceding financial years.

Prohibitions and restrictions regarding political contributions.

182. (1) Notwithstanding anything contained in any other provision of this Act, a company, other than a Government company and a company which has been in existence for less than three financial years, may contribute any amount directly or indirectly to any political party:

Provided that the amount referred to in sub-section (1) or, as the case may be, the aggregate of the amount which may be so contributed by the company in any financial year shall not exceed seven and a half per cent. of its average net profits during the three immediately preceding financial years:

Provided further that no such contribution shall be made by a company unless a resolution authorising the making of such contribution is passed at a meeting of the Board of Directors and such resolution shall, subject to the other provisions of this section, be deemed to be justification in law for the making and the acceptance of the contribution authorised by it.

(2) Without prejudice to the generality of the provisions of sub-section (1),—

(a) a donation or subscription or payment caused to be given by a company on its behalf or on its account to a person who, to its knowledge, is carrying on any activity which, at the time at which such donation or subscription or payment was given or made, can reasonably be regarded as likely to affect public support for a

political party shall also be deemed to be contribution of the amount of such donation, subscription or payment to such person for a political purpose;

(b) the amount of expenditure incurred, directly or indirectly, by a company on an advertisement in any publication, being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like, shall also be deemed,—

(i) where such publication is by or on behalf of a political party, to be a contribution of such amount to such political party, and

(ii) where such publication is not by or on behalf of, but for the advantage of a political party, to be a contribution for a political purpose.

(3) Every company shall disclose in its profit and loss account any amount or amounts contributed by it to any political party during the financial year to which that account relates, giving particulars of the total amount contributed and the name of the party to which such amount has been contributed.

(4) If a company makes any contribution in contravention of the provisions of this section, the company shall be punishable with fine which may extend to five times the amount so contributed and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five times the amount so contributed.

Explanation.—For the purposes of this section, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951.

183. (1) The Board of Directors of any company or any person or authority exercising the powers of the Board of Directors of a company, or of the company in general meeting, may, notwithstanding anything contained in sections 180, 181 and section 182 or any other provision of this Act or in the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the Central Government for the purpose of national defence.

Power of Board and other persons to make contributions to national defence fund, etc.

(2) Every company shall disclose in its profits and loss account the total amount or amounts contributed by it to the Fund referred to in sub-section (1) during the financial year to which the amount relates.

184. (1) Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding, in such manner as may be prescribed.

Disclosure of interest by director.

(2) Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—

(a) with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or

(b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be,

shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting:

Provided that where any director who is not so concerned or interested at the time of entering into such contract or arrangement, he shall, if he becomes concerned or interested after the contract or arrangement is entered into, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.

(3) A contract or arrangement entered into by the company without disclosure under sub-section (2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company.

(4) If a director of the company contravenes the provisions of sub-section (1) or sub-section (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, or with both.

(5) Nothing in this section—

(a) shall be taken to prejudice the operation of any rule of law restricting a director of a company from having any concern or interest in any contract or arrangement with the company;

(b) shall apply to any contract or arrangement entered into or to be entered into between two companies where any of the directors of the one company or two or more of them together holds or hold not more than two per cent. of the paid-up share capital in the other company.

Loan to
directors,
etc.

185. (1) Save as otherwise provided in this Act, no company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person:

Provided that nothing contained in this sub-section shall apply to—

(a) the giving of any loan to a managing or whole-time director—

(i) as a part of the conditions of service extended by the company to all its employees; or

(ii) pursuant to any scheme approved by the members by a special resolution; or

(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such

loans an interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India.

Explanation.—For the purposes of this section, the expression “to any other person in whom director is interested” means—

(a) any director of the lending company, or of a company which is its holding company or any partner or relative of any such director;

(b) any firm in which any such director or relative is a partner;

(c) any private company of which any such director is a director or member;

(d) any body corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or

(e) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.

(2) If any loan is advanced or a guarantee or security is given or provided in contravention of the provisions of sub-section (1), the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, and the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.

186. (1) Without prejudice to the provisions contained in this Act, a company shall unless otherwise prescribed, make investment through not more than two layers of investment companies:

Loan and investment by company.

Provided that the provisions of this sub-section shall not affect,—

(i) a company from acquiring any other company incorporated in a country outside India if such other company has investment subsidiaries beyond two layers as per the laws of such country;

(ii) a subsidiary company from having any investment subsidiary for the purposes of meeting the requirements under any law or under any rule or regulation framed under any law for the time being in force.

(2) No company shall directly or indirectly —

(a) give any loan to any person or other body corporate;

(b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and

(c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate,

exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account or one hundred per cent. of its free reserves and securities premium account, whichever is more.

(3) Where the giving of any loan or guarantee or providing any security or the acquisition under sub-section (2) exceeds the limits specified in that sub-section, prior approval by means of a special resolution passed at a general meeting shall be necessary.

(4) The company shall disclose to the members in the financial statement the full particulars of the loans given, investment made or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security.

(5) No investment shall be made or loan or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution concerned where any term loan is subsisting, is obtained:

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit as specified in sub-section (2), and there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution.

(6) No company, which is registered under section 12 of the Securities and Exchange Board of India Act, 1992 and covered under such class or classes of companies as may be prescribed, shall take inter-corporate loan or deposits exceeding the prescribed limit and such company shall furnish in its financial statement the details of the loan or deposits.

15 of 1992.

(7) No loan shall be given under this section at a rate of interest lower than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan.

(8) No company which is in default in the repayment of any deposits accepted before or after the commencement of this Act or in payment of interest thereon, shall give any loan or give any guarantee or provide any security or make an acquisition till such default is subsisting.

(9) Every company giving loan or giving a guarantee or providing security or making an acquisition under this section shall keep a register which shall contain such particulars and shall be maintained in such manner as may be prescribed.

(10) The register referred to in sub-section (9) shall be kept at the registered office of the company and —

(a) shall be open to inspection at such office; and

(b) extracts may be taken therefrom by any member, and copies thereof may be furnished to any member of the company on payment of such fees as may be prescribed.

(11) Nothing contained in this section, except sub-section (1), shall apply—

(a) to a loan made, guarantee given or security provided by a banking company or an insurance company or a housing finance company in the ordinary course of its business or a company engaged in the business of financing of companies or of providing infrastructural facilities;

(b) to any acquisition—

(i) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities:

Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;

(ii) made by a company whose principal business is the acquisition of securities;

(iii) of shares allotted in pursuance of clause (a) of sub-section (1) of section 62.

(12) The Central Government may make rules for the purposes of this section.

(13) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

Explanation.—For the purposes of this section,—

(a) the expression “investment company” means a company whose principal business is the acquisition of shares, debentures or other securities;

(b) the expression “infrastructure facilities” means the facilities specified in Schedule VI.

187. (1) All investments made or held by a company in any property, security or other asset shall be made and held by it in its own name:

Investments
of company
to be held in
its own name.

Provided that the company may hold any shares in its subsidiary company in the name of any nominee or nominees of the company, if it is necessary to do so, to ensure that the number of members of the subsidiary company is not reduced below the statutory limit.

(2) Nothing in this section shall be deemed to prevent a company—

(a) from depositing with a bank, being the bankers of the company, any shares or securities for the collection of any dividend or interest payable thereon; or

(b) from depositing with, or transferring to, or holding in the name of, the State Bank of India or a scheduled bank, being the bankers of the company, shares or securities, in order to facilitate the transfer thereof:

Provided that if within a period of six months from the date on which the shares or securities are transferred by the company to, or are first held by the company in the name of, the State Bank of India or a scheduled bank as aforesaid, no transfer of such shares or securities takes place, the company shall, as soon as practicable after the expiry of that period, have the shares or securities re-transferred to it from the State Bank of India or the scheduled bank or, as the case may be, again hold the shares or securities in its own name; or

(c) from depositing with, or transferring to, any person any shares or securities, by way of security for the repayment of any loan advanced to the company or the performance of any obligation undertaken by it;

(d) from holding investments in the name of a depository when such investments are in the form of securities held by the company as a beneficial owner.

(3) Where in pursuance of clause (d) of sub-section (2), any shares or securities in which investments have been made by a company are not held by it in its own name, the company shall maintain a register which shall contain such particulars as may be prescribed and such register shall be open to inspection by any member or debenture-holder of the company without any charge during business hours subject to such reasonable restrictions as the company may by its articles or in general meeting impose.

(4) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Related party transactions.

188. (1) Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—

(a) sale, purchase or supply of any goods or materials;

(b) selling or otherwise disposing of, or buying, property of any kind;

(c) leasing of property of any kind;

(d) availing or rendering of any services;

(e) appointment of any agent for purchase or sale of goods, materials, services or property;

(f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and

(g) underwriting the subscription of any securities or derivatives thereof, of the company:

Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a special resolution:

Provided further that no member of the company shall vote on such special resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party:

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis.

Explanation.— In this sub-section,—

(a) the expression “office or place of profit” means any office or place—

(i) where such office or place is held by a director, if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(ii) where such office or place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(b) the expression “arm's length transaction” means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

(2) Every contract or arrangement entered into under sub-section (1) shall be referred to in the Board's report to the shareholders along with the justification for entering into such contract or arrangement.

(3) Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a special resolution in the general meeting under sub-section (1) and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the directors concerned shall indemnify the company against any loss incurred by it.

(4) Without prejudice to anything contained in sub-section (3), it shall be open to the company to proceed against a director or any other employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.

(5) Any director or any other employee of a company, who had entered into or authorised the contract or arrangement in violation of the provisions of this section shall,—

(i) in case of listed company, be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both; and

(ii) in case of any other company, be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

Register of contracts or arrangements in which directors are interested.

189. (1) Every company shall keep one or more registers giving separately the particulars of all contracts or arrangements to which sub-section (2) of section 184 or section 188 applies, in such manner and containing such particulars as may be prescribed and after entering the particulars, such register or registers shall be placed before the next meeting of the Board and signed by all the directors present at the meeting.

(2) Every director or key managerial personnel shall, within a period of thirty days of his appointment, or relinquishment of his office, as the case may be, disclose to the company the particulars specified in sub-section (1) of section 184 relating to his concern or interest in the other associations which are required to be included in the register under that sub-section or such other information relating to himself as may be prescribed.

(3) The register referred to in sub-section (1) shall be kept at the registered office of the company and it shall be open for inspection at such office during business hours and extracts may be taken therefrom, and copies thereof as may be required by any member of the company shall be furnished by the company to such extent, in such manner, and on payment of such fees as may be prescribed.

(4) The register to be kept under this section shall also be produced at the commencement of every annual general meeting of the company and shall remain open and accessible during the continuance of the meeting to any person having the right to attend the meeting.

(5) Nothing contained in sub-section (1) shall apply to any contract or arrangement—

(a) for the sale, purchase or supply of any goods, materials or services if the value of such goods and materials or the cost of such services does not exceed five lakh rupees in the aggregate in any year; or

(b) by a banking company for the collection of bills in the ordinary course of its business.

(6) Every director who fails to comply with the provisions of this section and the rules made thereunder shall be liable to a penalty of twenty-five thousand rupees.

Contract of employment with managing or whole-time directors.

190. (1) Every company shall keep at its registered office,—

(a) where a contract of service with a managing or whole-time director is in writing, a copy of the contract; or

(b) where such a contract is not in writing, a written memorandum setting out its terms.

(2) The copies of the contract or the memorandum kept under sub-section (1) shall be open to inspection by any member of the company without payment of fee.

(3) If any default is made in complying with the provisions of sub-section (1) or sub-section (2), the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for each default.

(4) The provisions of this section shall not apply to a private company.

191. (1) No director of a company shall, in connection with—

(a) the transfer of the whole or any part of any undertaking or property of the company; or

(b) the transfer to any person of all or any of the shares in a company being a transfer resulting from—

(i) an offer made to the general body of shareholders;

(ii) an offer made by or on behalf of some other body corporate with a view to a company becoming a subsidiary company of such body corporate or a subsidiary company of its holding company;

(iii) an offer made by or on behalf of an individual with a view to his obtaining the right to exercise, or control the exercise of, not less than one-third of the total voting power at any general meeting of the company; or

(iv) any other offer which is conditional on acceptance to a given extent, receive any payment by way of compensation for loss of office or as consideration for retirement from office, or in connection with such loss or retirement from such company or from the transferee of such undertaking or property, or from the transferees of shares or from any other person, not being such company, unless particulars as may be prescribed with respect to the payment proposed to be made by such transferee or person, including the amount thereof, have been disclosed to the members of the company and the proposal has been approved by the company in general meeting.

Payment to director for loss of office, etc., in connection with transfer of undertaking, property or shares.

(2) Nothing in sub-section (1) shall affect any payment made by a company to a managing director or whole-time director or manager of the company by way of compensation for loss of office or as consideration for retirement from office or in connection with such loss or retirement subject to limits or priorities, as may be prescribed.

(3) If the payment under sub-section (1) or sub-section (2) is not approved for want of quorum either in a meeting or an adjourned meeting, the proposal shall not be deemed to have been approved.

(4) Where a director of a company receives payment of any amount in contravention of sub-section (1) or the proposed payment is made before it is approved in the meeting, the amount so received by the director shall be deemed to have been received by him in trust for the company.

(5) If a director of the company contravenes the provisions of this section, such director shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(6) Nothing in this section shall be taken to prejudice the operation of any law requiring disclosure to be made with respect to any payment received under this section or such other like payments made to a director.

Restriction on
non-cash
transactions
involving
directors.

192. (1) No company shall enter into an arrangement by which—

(a) a director of the company or its holding, subsidiary or associate company or a person connected with him acquires or is to acquire assets for consideration other than cash, from the company; or

(b) the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected,

unless prior approval for such arrangement is accorded by a resolution of the company in general meeting and if the director or connected person is a director of its holding company, approval under this sub-section shall also be required to be obtained by passing a resolution in general meeting of the holding company.

(2) The notice for approval of the resolution by the company or holding company in general meeting under sub-section (1) shall include the particulars of the arrangement along with the value of the assets involved in such arrangement duly calculated by a registered valuer.

(3) Any arrangement entered into by a company or its holding company in contravention of the provisions of this section shall be voidable at the instance of the company unless—

(a) the restitution of any money or other consideration which is the subject-matter of the arrangement is no longer possible and the company has been indemnified by any other person for any loss or damage caused to it; or

(b) any rights are acquired *bona fide* for value and without notice of the contravention of the provisions of this section by any other person.

Contract by
One Person
Company.

193. (1) Where One Person Company limited by shares or by guarantee enters into a contract with the sole member of the company who is also the director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract or offer are contained in a memorandum or are recorded in the minutes of the first meeting of the Board of Directors of the company held next after entering into contract:

Provided that nothing in this sub-section shall apply to contracts entered into by the company in the ordinary course of its business.

(2) The company shall inform the Registrar about every contract entered into by the company and recorded in the minutes of the meeting of its Board of Directors under sub-section (1) within a period of fifteen days of the date of approval by the Board of Directors.

Prohibition
on
forward
dealings in
securities of
company by
director or
key
managerial
personnel.

194. (1) No director of a company or any of its key managerial personnel shall buy in the company, or in its holding, subsidiary or associate company—

(a) a right to call for delivery or a right to make delivery at a specified price and within a specified time, of a specified number of relevant shares or a specified amount of relevant debentures; or

(b) a right, as he may elect, to call for delivery or to make delivery at a specified price and within a specified time, of a specified number of relevant shares or a specified amount of relevant debentures.

(2) If a director or any key managerial personnel of the company contravenes the provisions of sub-section (1), such director or key managerial personnel shall be punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

(3) Where a director or other key managerial personnel acquires any securities in contravention of sub-section (1), he shall, subject to the provisions contained in sub-section (2), be liable to surrender the same to the company and the company shall not register the securities so acquired in his name in the register, and if they are in dematerialised form, it shall inform the depository not to record such acquisition and such securities, in both the cases, shall continue to remain in the names of the transferors.

Explanation.—For the purposes of this section, “relevant shares” and “relevant debentures” mean shares and debentures of the company in which the concerned person is a whole-time director or other key managerial personnel or shares and debentures of its holding and subsidiary companies.

195. (1) No person including any director or key managerial personnel of a company shall enter into insider trading:

Prohibition
on
insider
trading
of securities.

Provided that nothing contained in this sub-section shall apply to any communication required in the ordinary course of business or profession or employment or under any law.

Explanation.—For the purposes of this section,—

(a) “insider trading” means—

(i) an act of subscribing, buying, selling, dealing or agreeing to subscribe, buy, sell or deal in any securities by any director or key managerial personnel or any other officer of a company either as principal or agent if such director or key managerial personnel or any other officer of the company is reasonably expected to have access to any non-public price sensitive information in respect of securities of company; or

(ii) an act of counselling about procuring or communicating directly or indirectly any non-public price-sensitive information to any person;

(b) “price-sensitive information” means any information which relates, directly or indirectly, to a company and which if published is likely to materially affect the price of securities of the company.

(2) If any person contravenes the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher, or with both.

CHAPTER XIII

APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

196. (1) No company shall appoint or employ at the same time a managing director and a manager.

Appointment
of managing
director,
whole-time
director or
manager.

(2) No company shall appoint or re-appoint any person as its managing director, whole-time director or manager for a term exceeding five years at a time:

Provided that no re-appointment shall be made earlier than one year before the expiry of his term.

(3) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who —

(a) is below the age of twenty-one years or has attained the age of seventy years:

Provided that appointment of a person who has attained the age of seventy years may be made by passing a special resolution in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;

(b) is an undischarged insolvent or has at any time been adjudged as an insolvent;

(c) has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them; or

(d) has at any time been convicted by a court of an offence and sentenced for a period of more than six months.

(4) Subject to the provisions of section 197 and Schedule V, a managing director, whole-time director or manager shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance to the conditions specified in that Schedule:

Provided that a notice convening Board or general meeting for considering such appointment shall include the terms and conditions of such appointment, remuneration payable and such other matters including interest, of a director or directors in such appointments, if any:

Provided further that a return in the prescribed form shall be filed within sixty days of such appointment with the Registrar.

(5) Subject to the provisions of this Act, where an appointment of a managing director, whole-time director or manager is not approved by the company at a general meeting, any act done by him before such approval shall not be deemed to be invalid.

Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits.

197. (1) The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the gross profits:

Provided that the company in general meeting may, with the approval of the Central Government, authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:

Provided further that, except with the approval of the company in general meeting,—

(i) the remuneration payable to any one managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together;

(ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—

(A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;

(B) three per cent. of the net profits in any other case.

(2) The percentages aforesaid shall be exclusive of any fees payable to directors under sub-section (5).

(3) Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or whole-time director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V and if it is not able to comply with such provisions, with the previous approval of the Central Government.

(4) The remuneration payable to the directors of a company, including any managing or whole-time director or manager, shall be determined, in accordance with and subject to the provisions of this section, either by the articles of the company, or by a resolution or, if the articles so require, by a special resolution, passed by the company in general meeting and the remuneration payable to a director determined aforesaid shall be inclusive of the remuneration payable to him for the services rendered by him in any other capacity:

Provided that any remuneration for services rendered by any such director in other capacity shall not be so included if—

(a) the services rendered are of a professional nature; and

(b) in the opinion of the Nomination and Remuneration Committee, if the company is covered under sub-section (1) of section 178, or the Board of Directors in other cases, the director possesses the requisite qualification for the practice of the profession.

(5) A director may receive remuneration by way of fee for attending meetings of the Board or Committee thereof or for any other purpose whatsoever as may be decided by the Board:

Provided that the amount of such fees shall not exceed the amount as may be prescribed:

Provided further that different fees for different classes of companies and fees in respect of independent director may be such as may be prescribed.

(6) A director or manager may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other.

(7) Notwithstanding anything contained in any other provision of this Act but subject to the provisions of this section, an independent director shall not be entitled to any stock option and may receive remuneration by way of fees provided under sub-section (5), reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.

(8) The net profits for the purposes of this section shall be computed in the manner referred to in section 198.

(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without the prior sanction of the Central Government; where it is required, he shall refund such sums to the company and until such sum is refunded, hold it in trust for the company.

(10) The company shall not waive the recovery of any sum refundable to it under sub-section (9) unless permitted by the Central Government.

(11) In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in accordance with the conditions specified in that Schedule and if such conditions are not being complied, the approval of the Central Government had been obtained.

(12) Every listed company shall disclose in the Board's report, the ratio of the remuneration of each director to the median employee's remuneration and such other details as may be prescribed.

(13) Where any insurance is taken by a company on behalf of its managing director, whole-time director, manager, Chief Executive Officer, Chief Financial Officer or Company Secretary for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in

relation to the company, the premium paid on such insurance shall not be treated as part of the remuneration payable to any such personnel:

Provided that if such person is proved to be guilty, the premium paid on such insurance shall be treated as part of the remuneration.

(14) Subject to the provisions of this section, any director who is in receipt of any commission from the company and who is a managing or whole-time director of the company shall not be disqualified from receiving any remuneration or commission from any holding company or subsidiary company of such company subject to its disclosure by the company in the Board's report.

(15) If any person contravenes the provisions of this section, he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Calculation of profits.

198. (1) In computing the net profits of a company in any financial year for the purpose of section 197,—

(a) credit shall be given for the sums specified in sub-section (2), and credit shall not be given for those specified in sub-section (3); and

(b) the sums specified in sub-section (4) shall be deducted, and those specified in sub-section (5) shall not be deducted.

(2) In making the computation aforesaid, credit shall be given for the bounties and subsidies received from any Government, or any public authority constituted or authorised in this behalf, by any Government, unless and except in so far as the Central Government otherwise directs.

(3) In making the computation aforesaid, credit shall not be given for the following sums, namely:—

(a) profits, by way of premium on shares or debentures of the company, which are issued or sold by the company;

(b) profits on sales by the company of forfeited shares;

(c) profits of a capital nature including profits from the sale of the undertaking or any of the undertakings of the company or of any part thereof;

(d) profits from the sale of any immovable property or fixed assets of a capital nature comprised in the undertaking or any of the undertakings of the company, unless the business of the company consists, whether wholly or partly, of buying and selling any such property or assets:

Provided that where the amount for which any fixed asset is sold exceeds the written-down value thereof, credit shall be given for so much of the excess as is not higher than the difference between the original cost of that fixed asset and its written-down value;

(e) any change in carrying amount of an asset or of a liability recognised in equity reserves including surplus in profit and loss account on measurement of the asset or the liability at fair value.

(4) In making the computation aforesaid, the following sums shall be deducted, namely:—

(a) all the usual working charges;

(b) directors' remuneration;

(c) bonus or commission paid or payable to any member of the company's staff, or to any engineer, technician or person employed or engaged by the company, whether on a whole-time or on a part-time basis;

(d) any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits;

(e) any tax on business profits imposed for special reasons or in special circumstances and notified by the Central Government in this behalf;

(f) interest on debentures issued by the company;

(g) interest on mortgages executed by the company and on loans and advances secured by a charge on its fixed or floating assets;

(h) interest on unsecured loans and advances;

(i) expenses on repairs, whether to immovable or to movable property, provided the repairs are not of a capital nature;

(j) outgoings inclusive of contributions made under section 181;

(k) depreciation to the extent specified in section 123;

(l) the excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year which begins at or after the commencement of this Act, in so far as such excess has not been deducted in any subsequent year preceding the year in respect of which the net profits have to be ascertained;

(m) any compensation or damages to be paid in virtue of any legal liability including a liability arising from a breach of contract;

(n) any sum paid by way of insurance against the risk of meeting any liability such as is referred to in clause (m);

(o) debts considered bad and written off or adjusted during the year of account.

(5) In making the computation aforesaid, the following sums shall not be deducted, namely:—

(a) income-tax and super-tax payable by the company under the Income-tax Act, 1961, or any other tax on the income of the company not falling under clauses (d) and (e) of sub-section (4);

(b) any compensation, damages or payments made voluntarily, that is to say, otherwise than in virtue of a liability such as is referred to in clause (m) of sub-section (4);

(c) loss of a capital nature including loss on sale of the undertaking or any of the undertakings of the company or of any part thereof not including any excess of the written-down value of any asset which is sold, discarded, demolished or destroyed over its sale proceeds or its scrap value;

(d) any change in carrying amount of an asset or of a liability recognised in equity reserves including surplus in profit and loss account on measurement of the asset or the liability at fair value.

Recovery of remuneration in certain cases.

199. Without prejudice to any liability incurred under the provisions of this Act or any other law for the time being in force, where a company is required to re-state its financial statements due to fraud or non-compliance with any requirement under this Act and the rules made thereunder, the company shall recover from any past or present managing director or whole-time director or manager or Chief Executive Officer (by whatever name called) who, during the period for which the financial statements are required to be re-stated, received the remuneration (including stock option) in excess of what would have been payable to him as per restatement of financial statements.

Central Government or company to fix limit with regard to remuneration.

200. Notwithstanding anything contained in this Chapter, the Central Government or a company may, while according its approval under section 196, to any appointment or to any remuneration under section 197 in respect of cases where the company has inadequate or no profits, fix the remuneration within the limits specified in this Act, at such amount or percentage of profits of the company, as it may deem fit and while fixing the remuneration, the Central Government or the company shall have regard to—

- (a) the financial position of the company;
- (b) the remuneration or commission drawn by the individual concerned in any other capacity;
- (c) the remuneration or commission drawn by him from any other company;
- (d) professional qualifications and experience of the individual concerned;
- (e) such other matters as may be prescribed.

Forms of, and procedure in relation to, certain applications.

201. (1) Every application made to the Central Government under this Chapter shall be in such form as may be prescribed.

(2) (a) Before any application is made by a company to the Central Government under any of the sections aforesaid, there shall be issued by or on behalf of the company a general notice to the members thereof, indicating the nature of the application proposed to be made.

(b) Such notice shall be published at least once in a newspaper in the principal language of the district in which the registered office of the company is situate and circulating in that district, and at least once in English in an English newspaper circulating in that district.

(c) The copies of the notices, together with a certificate by the company as to the due publication thereof, shall be attached to the application.

Compensation for loss of office of managing or whole-time director or manager.

202. (1) A company may make payment to a managing or whole-time director or manager, but not to any other director, by way of compensation for loss of office, or as consideration for retirement from office or in connection with such loss or retirement.

(2) No payment shall be made under sub-section (1) in the following cases, namely:—

(a) where the director resigns from his office as a result of the reconstruction of the company, or of its amalgamation with any other body corporate or bodies corporate,

and is appointed as the managing or whole-time director, manager or other officer of the reconstructed company or of the body corporate resulting from the amalgamation;

(b) where the director resigns from his office otherwise than on the reconstruction of the company or its amalgamation as aforesaid;

(c) where the office of the director is vacated under sub-section (1) of section 167;

(d) where the company is being wound up, whether by an order of the Tribunal or voluntarily, provided the winding up was due to the negligence or default of the director;

(e) where the director has been guilty of fraud or breach of trust in relation to, or of gross negligence in or gross mismanagement of, the conduct of the affairs of the company or any subsidiary company or holding company thereof; and

(f) where the director has instigated, or has taken part directly or indirectly in bringing about, the termination of his office.

(3) Any payment made to a managing or whole-time director or manager in pursuance of sub-section (1) shall not exceed the remuneration which he would have earned if he had been in office for the remainder of his term or for three years, whichever is shorter, calculated on the basis of the average remuneration actually earned by him during a period of three years immediately preceding the date on which he ceased to hold office, or where he held the office for a lesser period than three years, during such period:

Provided that no such payment shall be made to the director in the event of the commencement of the winding up of the company, whether before or at any time within twelve months after, the date on which he ceased to hold office, if the assets of the company on the winding up, after deducting the expenses thereof, are not sufficient to repay to the shareholders the share capital, including the premiums, if any, contributed by them.

(4) Nothing in this section shall be deemed to prohibit the payment to a managing or whole-time director, or manager, of any remuneration for services rendered by him to the company in any other capacity.

203. (1) Every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel,—

Appointment
of key
managerial
personnel.

(i) managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;

(ii) company secretary; and

(iii) Chief Financial Officer:

Provided that an individual shall not be appointed or reappointed as the chairperson of the company, in pursuance of the articles of the company, as well as the managing director or Chief Executive Officer of the company at the same time after the date of commencement of this Act unless,—

(a) the articles of such a company provide otherwise; or

(b) the company does not carry multiple businesses:

Provided further that nothing contained in the first proviso shall apply to such class of companies engaged in multiple businesses and which has appointed one or more Chief Executive Officers for each such business as may be notified by the Central Government.

(2) Every whole-time key managerial personnel of a company shall be appointed by means of a resolution of the Board containing the terms and conditions of the appointment including the remuneration.

(3) A whole-time key managerial personnel shall not hold office in more than one company except in its subsidiary company at the same time:

Provided that nothing contained in this sub-section shall disentitle a key managerial personnel from being a director of any company with the permission of the Board:

Provided further that whole-time key managerial personnel holding office in more than one company at the same time on the date of commencement of this Act, shall, within a period of six months from such commencement, choose one company, in which he wishes to continue to hold the office of key managerial personnel:

Provided also that a company may appoint or employ a person as its managing director, if he is the managing director or manager of one, and of not more than one, other company and such appointment or employment is made or approved by a resolution passed at a meeting of the Board with the consent of all the directors present at the meeting and of which meeting, and of the resolution to be moved thereat, specific notice has been given to all the directors then in India.

(4) If the office of any whole-time key managerial personnel is vacated, the resulting vacancy shall be filled-up by the Board at a meeting of the Board within a period of six months from the date of such vacancy.

(5) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every director and key managerial personnel of the company who is in default shall be punishable with fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

Secretarial
audit for
bigger
companies.

204. (1) Every listed company and a company belonging to other class of companies as may be prescribed shall annex with its Board's report made in terms of sub-section (3) of section 134, a secretarial audit report, given by a company secretary in practice, in such form as may be prescribed.

(2) It shall be the duty of the company to give all assistance and facilities to the company secretary in practice, for auditing the secretarial and related records of the company.

(3) The Board of Directors, in their report made in terms of sub-section (3) of section 134, shall explain in full any qualification or observation or other remarks made by the company secretary in practice in his report under sub-section (1).

(4) If a company or any officer of the company or the company secretary in practice, contravenes the provisions of this section, the company, every officer of the company or the company secretary in practice, who is in default, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Functions of
company
secretary.

205. (1) The functions of the company secretary shall include,—

(a) to report to the Board about compliance with the provisions of this Act, the rules made thereunder and other laws applicable to the company;

(b) to ensure that the company complies with the applicable secretarial standards;

(c) to discharge such other duties as may be prescribed.

Explanation.—For the purpose of this section, the expression “secretarial standards” means secretarial standards issued by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 and approved by the Central Government.

56 of 1980.

(2) The provisions contained in section 204 and section 205 shall not affect the duties and functions of the Board of Directors, chairperson of the company, managing director or whole-time director under this Act, or any other law for the time being in force.

CHAPTER XIV

INSPECTION, INQUIRY AND INVESTIGATION

206. (1) Where on a scrutiny of any document filed by a company or on any information received by him, the Registrar is of the opinion that any further information or explanation or any further documents relating to the company is necessary, he may by a written notice require the company—

Power to call for information, inspect books and conduct inquiries.

(a) to furnish in writing such information or explanation; or

(b) to produce such documents,

within such reasonable time, as may be specified in the notice.

(2) On the receipt of a notice under sub-section (1), it shall be the duty of the company and of its officers concerned to furnish such information or explanation to the best of their knowledge and power and to produce the documents to the Registrar within the time specified or extended by the Registrar:

Provided that where such information or explanation relates to any past period, the officers who had been in the employment of the company for such period, if so called upon by the Registrar through a notice served on them in writing, shall also furnish such information or explanation to the best of their knowledge.

(3) If no information or explanation is furnished to the Registrar within the time specified under sub-section (1) or if the Registrar on an examination of the documents furnished is of the opinion that the information or explanation furnished is inadequate or if the Registrar is satisfied on a scrutiny of the documents furnished that an unsatisfactory state of affairs exists in the company and does not disclose a full and fair statement of the information required, he may, by another written notice, call on the company to produce for his inspection such further books of account, books, papers and explanations as he may require at such place and at such time as he may specify in the notice:

Provided that before any notice is served under this sub-section, the Registrar shall record his reasons in writing for issuing such notice.

(4) If the Registrar is satisfied on the basis of information available with or furnished to him or on a representation made to him by any person that the business of a company is being carried on for a fraudulent or unlawful purpose or not in compliance with the provisions of this Act or if the grievances of investors are not being addressed, the Registrar may, after informing the company of the allegations made against it by a written order, call on the company to furnish in writing any information or explanation on matters specified in the order within such time as he may specify therein and carry out such inquiry as he deems fit after providing the company a reasonable opportunity of being heard:

Provided that the Central Government may, if it is satisfied that the circumstances so warrant, direct the Registrar or an inspector appointed by it for the purpose to carry out the inquiry under this sub-section:

Provided further that where business of a company has been or is being carried on for a fraudulent or unlawful purpose, every officer of the company who is in default shall be punishable for fraud in the manner as provided in section 447.

(5) Without prejudice to the foregoing provisions of this section, the Central Government may, if it is satisfied that the circumstances so warrant, direct inspection of books and papers of a company by an inspector appointed by it for the purpose.

(6) The Central Government may, having regard to the circumstances by general or special order, authorise any statutory authority to carry out the inspection of books of account of a company or class of companies.

(7) If a company fails to furnish any information or explanation or produce any document required under this section, the company and every officer of the company, who is in default shall be punishable with a fine which may extend to one lakh rupees and in the case of a continuing failure, with an additional fine which may extend to five hundred rupees for every day after the first during which the failure continues.

Conduct of
inspection and
inquiry.

207. (1) Where a Registrar or inspector calls for the books of account and other books and papers under section 206, it shall be the duty of every director, officer or other employee of the company to produce all such documents to the Registrar or inspector and furnish him with such statements, information or explanations in such form as the Registrar or inspector may require and shall render all assistance to the Registrar or inspector in connection with such inspection.

(2) The Registrar or inspector, making an inspection or inquiry under section 206 may, during the course of such inspection or inquiry, as the case may be,—

(a) make or cause to be made copies of books of account and other books and papers; or

(b) place or cause to be placed any marks of identification in such books in token of the inspection having been made.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the Registrar or inspector making an inspection or inquiry shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such Registrar or inspector making the inspection or inquiry;

(b) summoning and enforcing the attendance of persons and examining them on oath; and

(c) inspection of any books, registers and other documents of the company at any place.

(4) (i) If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(ii) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

Report on
inspection
made.

208. The Registrar or inspector shall, after the inspection of the books of account or an inquiry under section 206 and other books and papers of the company under section 207, submit a report in writing to the Central Government along with such documents, if any, and such report may, if necessary, include a recommendation that further investigation into the affairs of the company is necessary giving his reasons in support.

Search and
seizure.

209. (1) Where, upon information in his possession or otherwise, the Registrar or inspector has reasonable ground to believe that the books and papers of a company, or relating to the key managerial personnel or any director or auditor or company secretary in practice if the company has not appointed a company secretary, are likely to be destroyed, mutilated, altered, falsified or secreted, he may, after obtaining an order from the Special Court for the seizure of such books and papers,—

(a) enter, with such assistance as may be required, and search, the place or places where such books or papers are kept; and

(b) seize such books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books or papers at its cost.

(2) The Registrar or inspector shall return the books and papers seized under sub-section (1), as soon as may be, and in any case not later than one hundred and eightieth day after such seizure, to the company from whose custody or power such books or papers were seized:

Provided that the books and papers may be called for by the Registrar or inspector for a further period of one hundred and eighty days by an order in writing if they are needed again:

Provided further that the Registrar or inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such other manner as he considers necessary.

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures shall apply, *mutatis mutandis*, to every search and seizure made under this section.

210. (1) Where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company,—

Investigation into affairs of company.

(a) on the receipt of a report of the Registrar or inspector under section 208;

(b) on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated; or

(c) in public interest,

it may order an investigation into the affairs of the company.

(2) Where an order is passed by a court or the Tribunal in any proceedings before it that the affairs of a company ought to be investigated, the Central Government shall order an investigation into the affairs of that company.

(3) For the purposes of this section, the Central Government may appoint one or more persons as inspectors to investigate into the affairs of the company and to report thereon in such manner as the Central Government may direct.

211. (1) The Central Government shall, by notification, establish an office to be called the Serious Fraud Investigation Office to investigate frauds relating to a company:

Establishment of Serious Fraud Investigation Office.

Provided that until the Serious Fraud Investigation Office is established under sub-section (1), the Serious Fraud Investigation Office set-up by the Central Government in terms of the Government of India Resolution No. 45011/16/2003-Adm-I, dated the 2nd July, 2003 shall be deemed to be the Serious Fraud Investigation Office for the purpose of this section.

(2) The Serious Fraud Investigation Office shall be headed by a Director and consist of such number of experts from the following fields to be appointed by the Central Government from amongst persons of ability, integrity and experience in,—

(i) banking;

(ii) corporate affairs;

(iii) taxation;

(iv) forensic audit;

(v) capital market;

(vi) information technology;

(vii) law; or

(viii) such other fields as may be prescribed.

(3) The Central Government shall, by notification, appoint a Director in the Serious Fraud Investigation Office, who shall be an officer not below the rank of a Joint Secretary to the Government of India having knowledge and experience in dealing with matters relating to corporate affairs.

(4) The Central Government may appoint such experts and other officers and employees in the Serious Fraud Investigation Office as it considers necessary for the efficient discharge of its functions under this Act.

(5) The terms and conditions of service of Director, experts, and other officers and employees of the Serious Fraud Investigation Office shall be such as may be prescribed.

Investigation
into affairs of
Company by
Serious Fraud
Investigation
Office.

212. (1) Without prejudice to the provisions of section 210, where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company by the Serious Fraud Investigation Office---

(a) on receipt of a report of the Registrar or inspector under section 208;

(b) on intimation of a special resolution passed by a company that its affairs are required to be investigated;

(c) in the public interest; or

(d) on request from any Department of the Central Government or a State Government,

the Central Government may, by order, assign the investigation into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation.

(2) Where any case has been assigned by the Central Government to the Serious Fraud Investigation Office for investigation under this Act, no other investigating agency of Central Government or any State Government shall proceed with investigation in such case in respect of any offence under this Act and in case any such investigation has already been initiated, it shall not be proceeded further with and the concerned agency shall transfer the relevant documents and records in respect of such offences under this Act to Serious Fraud Investigation Office.

(3) Where the investigation into the affairs of a company has been assigned by the Central Government to Serious Fraud Investigation Office, it shall conduct the investigation in the manner and follow the procedure provided in this Chapter; and submit its report to the Central Government within such period as may be specified in the order.

(4) The Director, Serious Fraud Investigation Office shall cause the affairs of the company to be investigated by an Investigating Officer who shall have the power of the inspector under section 217.

(5) The company and its officers and employees, who are or have been in employment of the company shall be responsible to provide all information, explanation, documents and assistance to the Investigating Officer as he may require for conduct of the investigation.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences covered under sub-sections (5) and (6) of section 7, section 34, section 36, sub-section (1) of section 38, sub-section (5) of section 46, sub-section (7) of section 56, sub-section (10) of section 66, sub-section (5) of section 140, sub-section (4) of section 206, section 213, section 229, sub-section (1) of section 251, sub-section (3) of section 339 and section 448 which attract the punishment for fraud provided in section 447 of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless—

2 of 1974.

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:

Provided further that the Special Court shall not take cognizance of any offence referred to this sub-section except upon a complaint in writing made by—

(i) the Director, Serious Fraud Investigation Office; or

(ii) any officer of the Central Government authorised, by a general or special order in writing in this behalf by that Government.

2 of 1974.

(7) The limitation on granting of bail specified in sub-section (6) is in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

(8) If the Director, Additional Director or Assistant Director of Serious Fraud Investigation Office authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of any offence punishable under sections referred to in sub-section (6), he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(9) The Director, Additional Director or Assistant Director of Serious Fraud Investigation Office shall, immediately after arrest of such person under sub-section (8), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Serious Fraud Investigation Office in a sealed envelope, in such manner as may be prescribed and the Serious Fraud Investigation Office shall keep such order and material for such period as may be prescribed.

(10) Every person arrested under sub-section (8) shall within twenty-four hours, be taken to a Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the Magistrate's court.

(11) The Central Government if so directs, the Serious Fraud Investigation Office shall submit an interim report to the Central Government.

(12) On completion of the investigation, the Serious Fraud Investigation Office shall submit the investigation report to the Central Government.

(13) Notwithstanding anything contained in this Act or in any other law for the time being in force, a copy of the investigation report may be obtained by any person concerned by making an application in this regard to the court.

(14) On receipt of the investigation report, the Central Government may, after examination of the report (and after taking such legal advice, as it may think fit), direct the Serious Fraud Investigation Office to initiate prosecution against the company and its officers or employees, who are or have been in employment of the company or any other person directly or indirectly connected with the affairs of the company.

2 of 1974.

(15) Notwithstanding anything contained in this Act or in any other law for the time being in force, the investigation report filed with the Special Court for framing of charges shall be deemed to be a report filed by a police officer under section 173 of the Code of Criminal Procedure, 1973.

1 of 1956.

(16) Notwithstanding anything contained in this Act, any investigation or other action taken or initiated by Serious Fraud Investigation Office under the provisions of the Companies Act, 1956 shall continue to be proceeded with under that Act as if this Act had not been passed.

(17) (a) In case Serious Fraud Investigation Office has been investigating any offence under this Act, any other investigating agency, State Government, police authority, income-tax authorities having any information or documents in respect of such offence shall provide all such information or documents available with it to the Serious Fraud Investigation Office;

(b) The Serious Fraud Investigation Office shall share any information or documents available with it, with any investigating agency, State Government, police authority or income-tax authorities, which may be relevant or useful for such investigating agency, State Government, police authority or income-tax authorities in respect of any offence or matter being investigated or examined by it under any other law.

Investigation
into
company's
affairs in
other cases.

213. The Tribunal may,—

(a) on an application made by—

(i) not less than one hundred members or members holding not less than one-tenth of the total voting power, in the case of a company having a share capital; or

(ii) not less than one-fifth of the persons on the company's register of members, in the case of a company having no share capital,

and supported by such evidence as may be necessary for the purpose of showing that the applicants have good reasons for seeking an order for conducting an investigation into the affairs of the company; or

(b) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose;

(ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or

(iii) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company;

order, after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct:

Provided that if after investigation it is proved that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or that the company was formed for any fraudulent or unlawful purpose; or

(ii) any person concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud,

then, every officer of the company who is in default and the person or persons concerned in the formation of the company or the management of its affairs shall be punishable for fraud in the manner as provided in section 447.

214. Where an investigation is ordered by the Central Government in pursuance of clause (b) of sub-section (1) of section 210, or in pursuance of an order made by the Tribunal under section 213, the Central Government may before appointing an inspector under sub-section (3) of section 210 or clause (b) of section 213, require the applicant to give such security not exceeding twenty-five thousand rupees as may be prescribed, as it may think fit, for payment of the costs and expenses of the investigation and such security shall be refunded to the applicant if the investigation results in prosecution.

Security for payment of costs and expenses of investigation.

215. No firm, body corporate or other association shall be appointed as an inspector.

Firm, body corporate or association not to be appointed as inspector.

216. (1) Where it appears to the Central Government that there is a reason so to do, it may appoint one or more inspectors to investigate and report on matters relating to the company, and its membership for the purpose of determining the true persons—

Investigation of ownership of company.

(a) who are or have been financially interested in the success or failure, whether real or apparent, of the company; or

(b) who are or have been able to control or to materially influence the policy of the company.

(2) Without prejudice to its powers under sub-section (1), the Central Government shall appoint one or more inspectors under that sub-section, if the Tribunal, in the course of any proceeding before it, directs by an order that the affairs of the company ought to be investigated as regards the membership of the company and other matters relating to the company, for the purposes specified in sub-section (1).

(3) While appointing an inspector under sub-section (1), the Central Government may define the scope of the investigation, whether as respects the matters or the period to which it is to extend or otherwise, and in particular, may limit the investigation to matters connected with particular shares or debentures.

(4) Subject to the terms of appointment of an inspector, his powers shall extend to the investigation of any circumstances suggesting the existence of any arrangement or understanding which, though not legally binding, is or was observed or is likely to be observed in practice and which is relevant for the purposes of his investigation.

217. (1) It shall be the duty of all officers and other employees and agents including the former officers, employees and agents of a company which is under investigation in accordance with the provisions contained in this Chapter, and where the affairs of any other body corporate or a person are investigated under section 219, of all officers and other employees and agents including former officers, employees and agents of such body corporate or a person—

Procedure, powers, etc., of inspectors.

(a) to preserve and to produce to an inspector or any person authorised by him in this behalf all books and papers of, or relating to, the company or, as the case may be, relating to the other body corporate or the person, which are in their custody or power; and

(b) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(2) The inspector may require any body corporate, other than a body corporate referred to in sub-section (1), to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.

(3) The inspector shall not keep in his custody any books and papers produced under sub-section (1) or sub-section (2) for more than one hundred and eighty days and return the

same to the company, body corporate, firm or individual by whom or on whose behalf the books and papers were produced:

Provided that the books and papers may be called for by the inspector if they are needed again for a further period of one hundred and eighty days by an order in writing.

(4) An inspector may examine on oath—

(a) any of the persons referred to in sub-section (1); and

(b) with the prior approval of the Central Government, any other person,

in relation to the affairs of the company, or other body corporate or person, as the case may be, and for that purpose may require any of those persons to appear before him personally:

Provided that in case of an investigation under section 212, the prior approval of Director, Serious Fraud Investigation Office shall be sufficient under clause (b).

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the inspector, being an officer of the Central Government, making an investigation under this Chapter shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such person;

(b) summoning and enforcing the attendance of persons and examining them on oath; and

(c) inspection of any books, registers and other documents of the company at any place.

(6) (i) If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(ii) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

(7) The notes of any examination under sub-section (4) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(8) If any person fails without reasonable cause or refuses—

(a) to produce to an inspector or any person authorised by him in this behalf any book or paper which is his duty under sub-section (1) or sub-section (2) to produce;

(b) to furnish any information which is his duty under sub-section (2) to furnish;

(c) to appear before the inspector personally when required to do so under sub-section (4) or to answer any question which is put to him by the inspector in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to six months and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, and also with a further fine which may extend to two thousand rupees for every day after the first during which the failure or refusal continues.

(9) The officers of the Central Government, State Government, police or statutory authority shall provide assistance to the inspector for the purpose of inspection, inquiry or investigation, which the inspector may, with the prior approval of the Central Government, require.

(10) The Central Government may enter into an agreement with the Government of a foreign State for reciprocal arrangements to assist in any inspection, inquiry or investigation under this Act or under the corresponding law in force in that State and may, by notification, render the application of this Chapter in relation to a foreign State with which reciprocal arrangements have been made subject to such modifications, exceptions, conditions and qualifications as may be deemed expedient for implementing the agreement with that State.

2 of 1974.

(11) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 if, in the course of an investigation into the affairs of the company, an application is made to the competent court in India by the inspector stating that evidence is, or may be, available in a country or place outside India, such court may issue a letter of request to a court or an authority in such country or place, competent to deal with such request, to examine orally, or otherwise, any person, supposed to be acquainted with the facts and circumstances of the case, to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing, which may be in his possession pertaining to the case, and to forward all the evidence so taken or collected or the authenticated copies thereof or the things so collected to the court in India which had issued such letter of request:

Provided that the letter of request shall be transmitted in such manner as the Central Government may specify in this behalf:

Provided further that every statement recorded or document or thing received under this sub-section shall be deemed to be the evidence collected during the course of investigation.

(12) Upon receipt of a letter of request from a court or an authority in a country or place outside India, competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to affairs of a company under investigation in that country or place, the Central Government may, if it thinks fit, forward such letter of request to the court concerned, which shall thereupon summon the person before it and record his statement or cause any document or thing to be produced, or send the letter to any inspector for investigation, who shall thereupon investigate into the affairs of company in the same manner as the affairs of a company are investigated under this Act and the inspector shall submit the report to such court within thirty days or such extended time as the court may allow for further action:

Provided that the evidence taken or collected under this sub-section or authenticated copies thereof or the things so collected shall be forwarded by the court, to the Central Government for transmission, in such manner as the Central Government may deem fit, to the court or the authority in country or place outside India which had issued the letter of request.

218. (1) Notwithstanding anything contained in any other law for the time being in force, if—

(a) during the course of any investigation of the affairs and other matters of or relating to a company, other body corporate or person under section 210, section 212, section 213 or section 219 or of the membership and other matters of or relating to a company, or the ownership of shares in or debentures of a company or body corporate, or the affairs and other matters of or relating to a company, other body corporate or person, under section 216; or

(b) during the pendency of any proceeding against any person concerned in the conduct and management of the affairs of a company under Chapter XVI,

Protection of
employees
during
investigation.

such company, other body corporate or person proposes—

(i) to discharge or suspend any employee; or

(ii) to punish him, whether by dismissal, removal, reduction in rank or otherwise;

or

(iii) to change the terms of employment to his disadvantage,

the company, other body corporate or person, as the case may be, shall obtain approval of the Tribunal of the action proposed against the employee and if the Tribunal has any objection to the action proposed, it shall send by post notice thereof in writing to the company, other body corporate or person concerned.

(2) If the company, other body corporate or person concerned does not receive within thirty days of making of application under sub-section (1), the approval of the Tribunal, then and only then, the company, other body corporate or person concerned may proceed to take against the employee, the action proposed.

(3) If the company, other body corporate or person concerned is dissatisfied with the objection raised by the Tribunal, it may, within a period of thirty days of the receipt of the notice of the objection, prefer an appeal to the Appellate Tribunal in such manner and on payment of such fees as may be prescribed.

(4) The decision of the Appellate Tribunal on such appeal shall be final and binding on the Tribunal and on the company, other body corporate or person concerned.

(5) For the removal of doubts, it is hereby declared that the provisions of this section shall have effect without prejudice to the provisions of any other law for the time being in force.

Power of
inspector to
conduct
investigation
into affairs of
related
companies,
etc.

219. If an inspector appointed under section 210 or section 212 or section 213 to investigate into the affairs of a company considers it necessary for the purposes of the investigation, to investigate also the affairs of—

(a) any other body corporate which is, or has at any relevant time been the company's subsidiary company or holding company, or a subsidiary company of its holding company;

(b) any other body corporate which is, or has at any relevant time been managed by any person as managing director or as manager, who is, or was, at the relevant time, the managing director or the manager of the company;

(c) any other body corporate whose Board of Directors comprises nominees of the company or is accustomed to act in accordance with the directions or instructions of the company or any of its directors; or

(d) any person who is or has at any relevant time been the company's managing director or manager or employee,

he shall, subject to the prior approval of the Central Government, investigate into and report on the affairs of the other body corporate or of the managing director or manager, in so far as he considers that the results of his investigation are relevant to the investigation of the affairs of the company for which he is appointed.

Seizure of
documents by
inspector.

220. (1) Where in the course of an investigation under this Chapter, the inspector has reasonable grounds to believe that the books and papers of, or relating to, any company or other body corporate or managing director or manager of such company are likely to be destroyed, mutilated, altered, falsified or secreted, the inspector may—

(a) enter, with such assistance as may be required, the place or places where such books and papers are kept in such manner as may be required; and

(b) seize books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books and papers at its cost for the purposes of his investigation.

(2) The inspector shall keep in his custody the books and papers seized under this section for such a period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person from whose custody or power they were seized:

Provided that the inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such manner as he considers necessary.

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches or seizures shall apply *mutatis mutandis* to every search or seizure made under this section.

221. (1) Where it appears to the Tribunal, on a reference made to it by the Central Government or in connection with any inquiry or investigation into the affairs of a company under this Chapter or on any complaint made by such number of members as specified under sub-section (1) of section 244 or a creditor having one lakh amount outstanding against the company or any other person having a reasonable ground to believe that the removal, transfer or disposal of funds, assets, properties of the company is likely to take place in a manner that is prejudicial to the interests of the company or its shareholders or creditors or in public interest, it may by order direct that such transfer, removal or disposal shall not take place during such period not exceeding three years as may be specified in the order or may take place subject to such conditions and restrictions as the Tribunal may deem fit.

Freezing of assets of company on inquiry and investigation.

(2) In case of any removal, transfer or disposal of funds, assets, or properties of the company in contravention of the order of the Tribunal under sub-section (1), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

222. (1) Where it appears to the Tribunal, in connection with any investigation under section 216 or on a complaint made by any person in this behalf, that there is good reason to find out the relevant facts about any securities issued or to be issued by a company and the Tribunal is of the opinion that such facts cannot be found out unless certain restrictions, as it may deem fit, are imposed, the Tribunal may, by order, direct that the securities shall be subject to such restrictions as it may deem fit for such period not exceeding three years as may be specified in the order.

Imposition of restrictions upon securities.

(2) Where securities in any company are issued or transferred or acted upon in contravention of an order of the Tribunal under sub-section (1), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

223. (1) An inspector appointed under this Chapter may, and if so directed by the Central Government shall, submit interim reports to that Government, and on the conclusion of the investigation, shall submit a final report to the Central Government.

Inspector's report.

(2) Every report made under sub-section (1) shall be in writing or printed as the Central Government may direct.

(3) A copy of the report made under sub-section (1) may be obtained by making an application in this regard to the Central Government.

(4) The report of any inspector appointed under this Chapter shall be authenticated either—

(a) by the seal of the company whose affairs have been investigated; or

(b) by a certificate of a public officer having the custody of the report, as provided under section 76 of the Indian Evidence Act, 1872,

1 of 1872.

and such report shall be admissible in any legal proceeding as evidence in relation to any matter contained in the report.

(5) Nothing in this section shall apply to the report referred to in section 212.

Actions to be taken in pursuance of inspector's report.

224. (1) If, from an inspector's report, made under section 223, it appears to the Central Government that any person has, in relation to the company or in relation to any other body corporate or other person whose affairs have been investigated under this Chapter been guilty of any offence for which he is criminally liable, the Central Government may prosecute such person for the offence and it shall be the duty of all officers and other employees of the company or body corporate to give the Central Government the necessary assistance in connection with the prosecution.

(2) If any company or other body corporate is liable to be wound up under this Act and it appears to the Central Government from any such report made under section 223 that it is expedient so to do by reason of any such circumstances as are referred to in section 213, the Central Government may, unless the company or body corporate is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf—

(a) a petition for the winding up of the company or body corporate on the ground that it is just and equitable that it should be wound up;

(b) an application under section 241; or

(c) both.

(3) If from any such report as aforesaid, it appears to the Central Government that proceedings ought, in the public interest, to be brought by the company or any body corporate whose affairs have been investigated under this Chapter—

(a) for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation, or the management of the affairs, of such company or body corporate; or

(b) for the recovery of any property of such company or body corporate which has been misapplied or wrongfully retained,

the Central Government may itself bring proceedings for winding up in the name of such company or body corporate.

(4) The Central Government, shall be indemnified by such company or body corporate against any costs or expenses incurred by it in, or in connection with, any proceedings brought by virtue of sub-section (3).

(5) Where the report made by an inspector states that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property, or cash, as the case may be, and also for holding such director, key managerial personnel, officer or other person liable personally without any limitation of liability.

225. (1) The expenses of, and incidental to, an investigation by an inspector appointed by the Central Government under this Chapter other than expenses of inspection under section 214 shall be defrayed in the first instance by the Central Government, but shall be reimbursed by the following persons to the extent mentioned below, namely:—

Expenses of investigation.

(a) any person who is convicted on a prosecution instituted, or who is ordered to pay damages or restore any property in proceedings brought, under section 224, to the extent that he may in the same proceedings be ordered to pay the said expenses as may be specified by the court convicting such person, or ordering him to pay such damages or restore such property, as the case may be;

(b) any company or body corporate in whose name proceedings are brought as aforesaid, to the extent of the amount or value of any sums or property recovered by it as a result of such proceedings;

(c) unless, as a result of the investigation, a prosecution is instituted under section 224,—

(i) any company, body corporate, managing director or manager dealt with by the report of the inspector; and

(ii) the applicants for the investigation, where the inspector was appointed under section 213,

to such extent as the Central Government may direct.

(2) Any amount for which a company or body corporate is liable under clause (b) of sub-section (1) shall be a first charge on the sums or property mentioned in that clause.

226. An investigation under this Chapter may be initiated notwithstanding, and no such investigation shall be stopped or suspended by reason only of, the fact that—

Voluntary winding up of company, etc., not to stop investigation proceedings.

(a) an application has been made under section 241;

(b) the company has passed a special resolution for voluntary winding up; or

(c) any other proceeding for the winding up of the company is pending before the Tribunal:

Provided that where a winding up order is passed by the Tribunal in a proceeding referred to in clause (c), the inspector shall inform the Tribunal about the pendency of the investigation proceedings before him and the Tribunal shall pass such order as it may deem fit:

Provided further that nothing in the winding up order shall absolve any director or other employee of the company from participating in the proceedings before the inspector or any liability as a result of the finding by the inspector.

227. Nothing in this Chapter shall require the disclosure to the Tribunal or to the Central Government or to the Registrar or to an inspector appointed by the Central Government—

Legal advisers and bankers not to disclose certain information.

(a) by a legal adviser, of any privileged communication made to him in that capacity, except as respects the name and address of his client; or

(b) by the bankers of any company, body corporate, or other person, of any information as to the affairs of any of their customers, other than such company, body corporate, or person.

Investigation,
etc., of
foreign
companies.

228. The provisions of this Chapter shall apply *mutatis mutandis* to inspection, inquiry or investigation in relation to foreign companies.

Penalty for
furnishing
false
statement,
mutilation,
destruction of
documents.

229. Where a person who is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, or an officer or other employee of a company or other body corporate which is also under investigation,—

(a) destroys, mutilates or falsifies, or conceals or tampers or unauthorisedly removes, or is a party to the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, documents relating to the property, assets or affairs of the company or the body corporate;

(b) makes, or is a party to the making of, a false entry in any document concerning the company or body corporate; or

(c) provides an explanation which is false or which he knows to be false, he shall be punishable for fraud in the manner as provided in section 447.

CHAPTER XV

COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS

Power to
compromise
or make
arrangements
with creditors
and members.

230. (1) Where a compromise or arrangement is proposed—

(a) between a company and its creditors or any class of them; or

(b) between a company and its members or any class of them,

the Tribunal may, on the application of the company or of any creditor or member of the company, or in the case of a company which is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal directs.

Explanation.—For the purposes of this sub-section, arrangement includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods.

(2) The company or any other person, by whom an application is made under sub-section (1), shall disclose to the Tribunal by affidavit—

(a) all material facts relating to the company, such as the latest financial position of the company, the latest auditor's report on the accounts of the company and the pendency of any investigation or proceedings against the company;

(b) reduction of share capital of the company, if any, included in the compromise or arrangement;

(c) any scheme of corporate debt restructuring consented to by not less than seventy-five per cent. of the secured creditors in value, including—

(i) a creditor's responsibility statement in the prescribed form;

(ii) safeguards for the protection of other secured and unsecured creditors;

(iii) report by the auditor that the fund requirements of the company after the corporate debt restructuring as approved shall conform to the liquidity test based upon the estimates provided to them by the Board;

(iv) where the company proposes to adopt the corporate debt restructuring guidelines specified by the Reserve Bank of India, a statement to that effect; and

(v) a valuation report in respect of the shares and the property and all assets, tangible and intangible, movable and immovable, of the company by a registered valuer;

(3) Where a meeting is proposed to be called in pursuance of an order of the Tribunal under sub-section (1), a notice of such meeting shall be sent to all the creditors or class of creditors and to all the members or class of members and the debenture-holders of the company, individually at the address registered with the company which shall be accompanied by a statement disclosing the details of the compromise or arrangement, a copy of the valuation report, if any, and explaining their effect on creditors, key managerial personnel, promoters and non-promoter members, and the debenture-holders and the effect of the compromise or arrangement on any material interests of the directors of the company or the debenture trustees, and such other matters as may be prescribed:

Provided that such notice and other documents shall also be placed on the website of the company, if any, and in case of a listed company, these documents shall be sent to the Securities and Exchange Board and stock exchange where the securities of the companies are listed, for placing on their website and shall also be published in newspapers in such manner as may be prescribed:

Provided further that where the notice for the meeting is also issued by way of an advertisement, it shall indicate the time within which copies of the compromise or arrangement shall be made available to the concerned persons free of charge from the registered office of the company.

(4) A notice under sub-section (3) shall provide that the persons to whom the notice is sent may vote in the meeting either themselves or through proxies or by postal ballot to the adoption of the compromise or arrangement within one month from the date of receipt of such notice:

Provided that any objection to the compromise or arrangement shall be made only by persons holding not less than ten per cent. of the shareholding or having outstanding debt amounting to not less than five per cent. of the total outstanding debt as per the latest audited financial statement.

(5) A notice under sub-section (3) along with all the documents in such form as may be prescribed shall also be sent to the Central Government, the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India established under sub-section (1) of section 7 of the Competition Act, 2002, if necessary, and such other sectoral regulators or authorities which are likely to be affected by the compromise or arrangement and shall require that representations, if any, to be made by them shall be made within a period of thirty days from the date of receipt of such notice, failing which, it shall be presumed that they have no representations to make on the proposals.

(6) Where, at a meeting held in pursuance of sub-section (1), majority of persons representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement is sanctioned by the Tribunal by an order, the same shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or, in case of a company being wound up, on the liquidator and the contributories of the company.

(7) An order made by the Tribunal under sub-section (6) shall provide for all or any of the following matters, namely:—

(a) where the compromise or arrangement provides for conversion of preference shares into equity shares, such preference shareholders shall be given an option to either obtain arrears of dividend in cash or accept equity shares equal to the value of the dividend payable;

(b) the protection of any class of creditors;

(c) if the compromise or arrangement results in the variation of the shareholders' rights, it shall be given effect to under the provisions of section 48;

(d) if the compromise or arrangement is agreed to by the creditors under sub-section (6), any proceedings pending before the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 shall abate;

1 of 1986

(e) such other matters including exit offer to dissenting shareholders, if any, as are in the opinion of the Tribunal necessary to effectively implement the terms of the compromise or arrangement:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(8) The order of the Tribunal shall be filed with the Registrar by the company within a period of thirty days of the receipt of the order.

(9) The Tribunal may dispense with calling of a meeting of creditor or class of creditors where such creditors or class of creditors, having at least ninety per cent. value, agree and confirm, by way of affidavit, to the scheme of compromise or arrangement.

(10) No compromise or arrangement in respect of any buy-back of securities under this section shall be sanctioned by the Tribunal unless such buy-back is in accordance with the provisions of section 68.

(11) Any compromise or arrangement may include takeover offer made in such manner as may be prescribed:

Provided that in case of listed companies, takeover offer shall be as per the regulations framed by the Securities and Exchange Board.

(12) An aggrieved party may make an application to the Tribunal in the event of any grievances with respect to the takeover offer of companies other than listed companies in such manner as may be prescribed and the Tribunal may, on application, pass such order as it may deem fit.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of section 66 shall not apply to the reduction of share capital effected in pursuance of the order of the Tribunal under this section.

Power of
Tribunal to
enforce
compromise
or
arrangement.

231. (1) Where the Tribunal makes an order under section 230 sanctioning a compromise or an arrangement in respect of a company, it—

(a) shall have power to supervise the implementation of the compromise or arrangement; and

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper implementation of the compromise or arrangement.

(2) If the Tribunal is satisfied that the compromise or arrangement sanctioned under section 230 cannot be implemented satisfactorily with or without modifications, and the company is unable to pay its debts as per the scheme, it may make an order for winding up the company and such an order shall be deemed to be an order made under section 273.

(3) The provisions of this section shall, so far as may be, also apply to a company in respect of which an order has been made before the commencement of this Act sanctioning a compromise or an arrangement.

232. (1) Where an application is made to the Tribunal under section 230 for the sanctioning of a compromise or an arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Tribunal—

Merger and
amalgamation
of companies.

(a) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of the company or companies involving merger or the amalgamation of any two or more companies; and

(b) that under the scheme, the whole or any part of the undertaking, property or liabilities of any company (hereinafter referred to as the transferor company) is required to be transferred to another company (hereinafter referred to as the transferee company), or is proposed to be divided among and transferred to two or more companies,

the Tribunal may on such application, order a meeting of the creditors or class of creditors or the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal may direct and the provisions of sub-sections (3) to (6) of section 230 shall apply *mutatis mutandis*.

(2) Where an order has been made by the Tribunal under sub-section (1), merging companies or the companies in respect of which a division is proposed, shall also be required to circulate the following for the meeting so ordered by the Tribunal, namely:—

(a) the draft of the proposed terms of the scheme drawn up and adopted by the directors of the merging company;

(b) confirmation that a copy of the draft scheme has been filed with the Registrar;

(c) a report adopted by the directors of the merging companies explaining effect of compromise on each class of shareholders, key managerial personnel, promoters and non-promoter shareholders laying out in particular the share exchange ratio, specifying any special valuation difficulties;

(d) the report of the expert with regard to valuation, if any;

(e) a supplementary accounting statement if the last annual accounts of any of the merging company relate to a financial year ending more than six months before the first meeting of the company summoned for the purposes of approving the scheme.

(3) The Tribunal, after satisfying itself that the procedure specified in sub-sections (1) and (2) has been complied with, may, by order, sanction the compromise or arrangement or by a subsequent order, make provision for the following matters, namely:—

(a) the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of the transferor company from a date to be determined by the parties unless the Tribunal, for reasons to be recorded by it in writing, decides otherwise;

(b) the allotment or appropriation by the transferee company of any shares, debentures, policies or other like instruments in the company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person:

Provided that a transferee company shall not, as a result of the compromise or arrangement, hold any shares in its own name or in the name of any trust whether on

its behalf or on behalf of any of its subsidiary or associate companies and any such shares shall be cancelled or extinguished;

(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company on the date of transfer;

(d) dissolution, without winding-up, of any transferor company;

(e) the provision to be made for any persons who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement;

(f) where share capital is held by any non-resident shareholder under the foreign direct investment norms or guidelines specified by the Central Government or in accordance with any law for the time being in force, the allotment of shares of the transferee company to such shareholder shall be in the manner specified in the order;

(g) the transfer of the employees of the transferor company to the transferee company;

(h) where the transferor company is a listed company and the transferee company is an unlisted company,—

(A) the transferee company shall remain an unlisted company until it becomes a listed company;

(B) if shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made, and the arrangements under this provision may be made by the Tribunal:

Provided that the amount of payment or valuation under this clause for any share shall not be less than what has been specified by the Securities and Exchange Board under any regulations framed by it;

(i) where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation; and

(j) such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(4) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to the transferee company and the liabilities shall be transferred to and become the liabilities of the transferee company and any property may, if the order so directs, be freed from any charge which shall by virtue of the compromise or arrangement, cease to have effect.

(5) Every company in relation to which the order is made shall cause a certified copy of the order to be filed with the Registrar for registration within thirty days of the receipt of certified copy of the order.

(6) The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date.

(7) Every company in relation to which the order is made shall, until the completion of the scheme, file a statement in such form and within such time as may be prescribed with the Registrar every year duly certified by a chartered accountant or a cost accountant or a company secretary in practice indicating whether the scheme is being complied with in accordance with the orders of the Tribunal or not.

(8) If a transferor company or a transferee company contravenes the provisions of this section, the transferor company or the transferee company, as the case may be, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of such transferor or transferee company who is in default, shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.

Explanation.—For the purposes of this section,—

(i) in a scheme involving a merger, where under the scheme the undertaking, property and liabilities of one or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to another existing company, it is a merger by absorption, or where the undertaking, property and liabilities of two or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to a new company, whether or not a public company, it is a merger by formation of a new company;

(ii) references to merging companies are in relation to a merger by absorption, to the transferor and transferee companies, and, in relation to a merger by formation of a new company, to the transferor companies;

(iii) a scheme involves a division, where under the scheme the undertaking, property and liabilities of the company in respect of which the compromise or arrangement is proposed are to be divided among and transferred to two or more companies each of which is either an existing company or a new company; and

(iv) property includes assets, rights and interests of every description and liabilities include debts and obligations of every description.

233. (1) Notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class or classes of companies as may be prescribed, subject to the following, namely:—

Merger or
amalgamation
of certain
companies.

(a) a notice of the proposed scheme inviting objections or suggestions, if any, from the Registrar and Official Liquidators where registered office of the respective companies are situated or persons affected by the scheme within thirty days is issued by the transferor company or companies and the transferee company;

(b) the objections and suggestions received are considered by the companies in their respective general meetings and the scheme is approved by the respective members or class of members at a general meeting holding at least ninety per cent. of the total number of shares;

(c) each of the companies involved in the merger files a declaration of solvency, in the prescribed form, with the Registrar of the place where the registered office of the company is situated; and

(d) the scheme is approved by majority representing nine-tenths in value of the creditors or class of creditors of respective companies indicated in a meeting convened by the company by giving a notice of twenty-one days along with the scheme to its creditors for the purpose or otherwise approved in writing.

(2) The transferee company shall file a copy of the scheme so approved in the manner as may be prescribed, with the Central Government, Registrar and the Official Liquidator where the registered office of the company is situated.

(3) On the receipt of the scheme, if the Registrar or the Official Liquidator has no objections or suggestions to the scheme, the Central Government shall register the same and issue a confirmation thereof to the companies.

(4) If the Registrar or Official Liquidator has any objections or suggestions, he may communicate the same in writing to the Central Government within a period of thirty days:

Provided that if no such communication is made, it shall be presumed that he has no objection to the scheme.

(5) If the Central Government after receiving the objections or suggestions or for any reason is of the opinion that such a scheme is not in public interest or in the interest of the creditors, it may file an application before the Tribunal within a period of sixty days of the receipt of the scheme under sub-section (2) stating its objections and requesting that the Tribunal may consider the scheme under section 232.

(6) On receipt of an application from the Central Government or from any person, if the Tribunal, for reasons to be recorded in writing, is of the opinion that the scheme should be considered as per the procedure laid down in section 232, the Tribunal may direct accordingly or it may confirm the scheme by passing such order as it deems fit:

Provided that if the Central Government does not have any objection to the scheme or it does not file any application under this section before the Tribunal, it shall be deemed that it has no objection to the scheme.

(7) A copy of the order under sub-section (6) confirming the scheme shall be communicated to the Registrar having jurisdiction over the transferee company and the persons concerned and the Registrar shall register the scheme and issue a confirmation thereof to the companies and such confirmation shall be communicated to the Registrars where transferor company or companies were situated.

(8) The registration of the scheme under sub-section (3) or sub-section (7) shall be deemed to have the effect of dissolution of the transferor company without process of winding-up.

(9) The registration of the scheme shall have the following effects, namely:—

(a) transfer of property or liabilities of the transferor company to the transferee company so that the property becomes the property of the transferee company and the liabilities become the liabilities of the transferee company;

(b) the charges, if any, on the property of the transferor company shall be applicable and enforceable as if the charges were on the property of the transferee company;

(c) legal proceedings by or against the transferor company pending before any court of law shall be continued by or against the transferee company; and

(d) where the scheme provides for purchase of shares held by the dissenting shareholders or settlement of debt due to dissenting creditors, such amount, to the extent it is unpaid, shall become the liability of the transferee company.

(10) A transferee company shall not on merger or amalgamation, hold any shares in its own name or in the name of any trust either on its behalf or on behalf of any of its subsidiary or associate company and all such shares shall be cancelled or extinguished on the merger or amalgamation.

(11) The transferee company shall file an application with the Registrar along with the scheme registered, indicating the revised authorised capital and pay the prescribed fees due on revised capital:

Provided that the fee, if any, paid by the transferor company on its authorised capital prior to its merger or amalgamation with the transferee company shall be set-off against the fees payable by the transferee company on its authorised capital enhanced by the merger or amalgamation.

(12) The provisions of this section shall *mutatis mutandis* apply to a company or companies specified in sub-section (1) in respect of a scheme of compromise or arrangement referred to in section 230 or division or transfer of a company referred to clause (b) of sub-section (1) of section 232.

(13) The Central Government may provide for the merger or amalgamation of companies in such manner as may be prescribed.

(14) A company covered under this section may use the provisions of section 232 for the approval of any scheme for merger or amalgamation.

234. (1) The provisions of this Chapter unless otherwise provided under any other law for the time being in force, shall apply *mutatis mutandis* to schemes of mergers and amalgamations between companies registered under this Act and companies incorporated in the jurisdictions of such countries as may be notified from time to time by the Central Government:

Merger or amalgamation of company with foreign company.

Provided that the Central Government may make rules, in consultation with the Reserve Bank of India, in connection with mergers and amalgamations provided under this section.

(2) Subject to the provisions of any other law for the time being in force, a foreign company, may with the prior approval of the Reserve Bank of India, merge into a company registered under this Act or *vice versa* and the terms and conditions of the scheme of merger may provide, among other things, for the payment of consideration to the shareholders of the merging company in cash, or in Depository Receipts, or partly in cash and partly in Depository Receipts, as the case may be, as per the scheme to be drawn up for the purpose.

Explanation.—For the purposes of sub-section (2), the expression “foreign company” means any company or body corporate incorporated outside India whether having a place of business in India or not.

235. (1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (the transferor company) to another company (the transferee company) has, within four months after making of an offer in that behalf by the transferee company, been approved by the holders of not less than nine-tenths in value of the shares whose transfer is involved, other than shares already held at the date of the offer by, or by a nominee of the transferee company or its subsidiary companies, the transferee company may, at any time within two months after the expiry of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares.

Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.

(2) Where a notice under sub-section (1) is given, the transferee company shall, unless on an application made by the dissenting shareholder to the Tribunal, within one month from the date on which the notice was given and the Tribunal thinks fit to order

otherwise, be entitled to and bound to acquire those shares on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee company.

(3) Where a notice has been given by the transferee company under sub-section (1) and the Tribunal has not, on an application made by the dissenting shareholder, made an order to the contrary, the transferee company shall, on the expiry of one month from the date on which the notice has been given, or, if an application to the Tribunal by the dissenting shareholder is then pending, after that application has been disposed of, send a copy of the notice to the transferor company together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferor company and on its own behalf by the transferee company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which, by virtue of this section, that company is entitled to acquire, and the transferor company shall—

(a) thereupon register the transferee company as the holder of those shares; and

(b) within one month of the date of such registration, inform the dissenting shareholders of the fact of such registration and of the receipt of the amount or other consideration representing the price payable to them by the transferee company.

(4) Any sum received by the transferor company under this section shall be paid into a separate bank account, and any such sum and any other consideration so received shall be held by that company in trust for the several persons entitled to the shares in respect of which the said sum or other consideration were respectively received and shall be disbursed to the entitled shareholders within sixty days.

(5) In relation to an offer made by a transferee company to shareholders of a transferor company before the commencement of this Act, this section shall have effect with the following modifications, namely:—

(a) in sub-section (1), for the words “the shares whose transfer is involved other than shares already held at the date of the offer by, or by a nominee of, the transferee company or its subsidiaries,”, the words “the shares affected” shall be substituted; and

(b) in sub-section (3), the words “together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferor company” shall be omitted.

Explanation.—For the purposes of this section, “dissenting shareholder” includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

Purchase of
minority
shareholding.

236. (1) In the event of an acquirer, or a person acting in concert with such acquirer, becoming registered holder of ninety per cent. or more of the issued equity share capital of a company, or in the event of any person or group of persons becoming ninety per cent. majority or holding ninety per cent. of the issued equity share capital of a company, by virtue of an amalgamation, share exchange, conversion of securities or for any other reason, such acquirer, person or group of persons, as the case may be, shall notify the company of their intention to buy the remaining equity shares.

(2) The acquirer, person or group of persons under sub-section (1) shall offer to the minority shareholders of the company for buying the equity shares held by such

shareholders at a price determined on the basis of valuation by a registered valuer in accordance with such rules as may be prescribed.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the minority shareholders of the company may offer to the majority shareholders to purchase the minority equity shareholding of the company at the price determined in accordance with such rules as may be prescribed under sub-section (2).

(4) The majority shareholders shall deposit an amount equal to the value of shares to be acquired by them under sub-section (2) or sub-section (3), as the case may be, in a separate bank account to be operated by the transferor company for at least one year for payment to the minority shareholders and such amount shall be disbursed to the entitled shareholders within sixty days:

Provided that such disbursement shall continue to be made to the entitled shareholders for a period of one year, who for any reason had not been made disbursement within the said period of sixty days or if the disbursement have been made within the aforesaid period of sixty days, fail to receive or claim payment arising out of such disbursement.

(5) In the event of a purchase under this section, the transferor company shall act as a transfer agent for receiving and paying the price to the minority shareholders and for taking delivery of the shares and delivering such shares to the majority, as the case may be.

(6) In the absence of a physical delivery of shares by the shareholders within the time specified by the company, the share certificates shall be deemed to be cancelled, and the transferor company shall be authorised to issue shares in lieu of the cancelled shares and complete the transfer in accordance with law and make payment of the price out of deposit made under sub-section (4) by the majority in advance to the minority by despatch of such payment.

(7) In the event of a majority shareholder or shareholders requiring a full purchase and making payment of price by deposit with the company for any shareholder or shareholders who have died or ceased to exist, or whose heirs, successors, administrators or assignees have not been brought on record by transmission, the right of such shareholders to make an offer for sale of minority equity shareholding shall continue and be available for a period of three years from the date of majority acquisition or majority shareholding.

(8) Where the shares of minority shareholders have been acquired in pursuance of this section and as on or prior to the date of transfer following such acquisition, the shareholders holding seventy-five per cent. or more minority equity shareholding negotiate or reach an understanding on a higher price for any transfer, proposed or agreed upon, of the shares held by them without disclosing the fact or likelihood of transfer taking place on the basis of such negotiation, understanding or agreement, the majority shareholders shall share the additional compensation so received by them with such minority shareholders on a *pro rata* basis.

Explanation.—For the purposes of this section, the expressions “acquirer” and “person acting in concert” shall have the meanings respectively assigned to them in clause (b) and clause (e) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

(9) When a shareholder or the majority equity shareholder fails to acquire full purchase of the shares of the minority equity shareholders, then, the provisions of this section shall continue to apply to the residual minority equity shareholders, even though,—

(a) the shares of the company of the residual minority equity shareholder had been delisted; and

(b) the period of one year or the period specified in the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, had elapsed.

15 of 1992.

Power of
Central
Government
to provide
for
amalgamation
of companies
in public
interest.

237. (1) Where the Central Government is satisfied that it is essential in the public interest that two or more companies should amalgamate, the Central Government may, by order notified in the Official Gazette, provide for the amalgamation of those companies into a single company with such constitution, with such property, powers, rights, interests, authorities and privileges, and with such liabilities, duties and obligations, as may be specified in the order.

(2) The order under sub-section (1) may also provide for the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company and such consequential, incidental and supplemental provisions as may, in the opinion of the Central Government, be necessary to give effect to the amalgamation.

(3) Every member or creditor, including a debenture holder, of each of the transferor companies before the amalgamation shall have, as nearly as may be, the same interest in or rights against the transferee company as he had in the company of which he was originally a member or creditor, and in case the interest or rights of such member or creditor in or against the transferee company are less than his interest in or rights against the original company, he shall be entitled to compensation to that extent, which shall be assessed by such authority as may be prescribed and every such assessment shall be published in the Official Gazette, and the compensation so assessed shall be paid to the member or creditor concerned by the transferee company.

(4) Any person aggrieved by any assessment of compensation made by the prescribed authority under sub-section (3) may, within a period of thirty days from the date of publication of such assessment in the Official Gazette, prefer an appeal to the Tribunal and thereupon the assessment of the compensation shall be made by the Tribunal.

(5) No order shall be made under this section unless—

(a) a copy of the proposed order has been sent in draft to each of the companies concerned;

(b) the time for preferring an appeal under sub-section (4) has expired, or where any such appeal has been preferred, the appeal has been finally disposed off; and

(c) the Central Government has considered, and made such modifications, if any, in the draft order as it may deem fit in the light of suggestions and objections which may be received by it from any such company within such period as the Central Government may fix in that behalf, not being less than two months from the date on which the copy aforesaid is received by that company, or from any class of shareholders therein, or from any creditors or any class of creditors thereof.

(6) The copies of every order made under this section shall, as soon as may be after it has been made, be laid before each House of Parliament.

238. (1) In relation to every offer of a scheme or contract involving the transfer of shares or any class of shares in the transferor company to the transferee company under section 235,—

Registration of offer of schemes involving transfer of shares.

(a) every circular containing such offer and recommendation to the members of the transferor company by its directors to accept such offer shall be accompanied by such information and in such manner as may be prescribed;

(b) every such offer shall contain a statement by or on behalf of the transferee company, disclosing the steps it has taken to ensure that necessary cash will be available; and

(c) every such circular shall be presented to the Registrar for registration and no such circular shall be issued until it is so registered:

Provided that the Registrar may refuse, for reasons to be recorded in writing, to register any such circular which does not contain the information required to be given under clause (a) or which sets out such information in a manner likely to give a false impression, and communicate such refusal to the parties within thirty days of the application.

(2) An appeal shall lie to the Tribunal against an order of the Registrar refusing to register any circular under sub-section (1).

(3) The director who issues a circular which has not been presented for registration and registered under clause (c) of sub-section (1), shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

239. The books and papers of a company which has been amalgamated with, or whose shares have been acquired by, another company under this Chapter shall not be disposed of without the prior permission of the Central Government and before granting such permission, that Government may appoint a person to examine the books and papers or any of them for the purpose of ascertaining whether they contain any evidence of the commission of an offence in connection with the promotion or formation, or the management of the affairs, of the transferor company or its amalgamation or the acquisition of its shares.

Preservation of books and papers of amalgamated companies.

240. Notwithstanding anything in any other law for the time being in force, the liability in respect of offences committed under this Act by the officers in default, of the transferor company prior to its merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition.

Liability of officers in respect of offences committed prior to merger, amalgamation, etc.

CHAPTER XVI

PREVENTION OF OPPRESSION AND MISMANAGEMENT

241. (1) Any member of a company who complains that—

Application to Tribunal for relief in cases of oppression, etc.

(a) the affairs of the company have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company; or

(b) the material change, not being a change brought about by, or in the interests of, any creditors, including debenture holders or any class of shareholders of the company, has taken place in the management or control of the company, whether by an alteration in the Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason of such change, it is likely that the affairs of

the company will be conducted in a manner prejudicial to its interests or its members or any class of members,

may apply to the Tribunal, provided such member has a right to apply under section 244, for an order under this Chapter.

(2) The Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, it may itself apply to the Tribunal for an order under this Chapter.

Powers of
Tribunal.

242. (1) If, on any application made under section 241, the Tribunal is of the opinion—

(a) that the company's affairs have been or are being conducted in a manner prejudicial or oppressive to any member or members or prejudicial to public interest or in a manner prejudicial to the interests of the company; and

(b) that to wind up the company would unfairly prejudice such member or members, but that otherwise the facts would justify the making of a winding-up order on the ground that it was just and equitable that the company should be wound up,

the Tribunal may, with a view to bringing to an end the matters complained of, make such order as it thinks fit.

(2) Without prejudice to the generality of the powers under sub-section (1), an order under that sub-section may provide for—

(a) the regulation of conduct of affairs of the company in future;

(b) the purchase of shares or interests of any members of the company by other members thereof or by the company;

(c) in the case of a purchase of its shares by the company as aforesaid, the consequent reduction of its share capital;

(d) restrictions on the transfer or allotment of the shares of the company;

(e) the termination, setting aside or modification, of any agreement, howsoever arrived at, between the company and the managing director, any other director or manager, upon such terms and conditions as may, in the opinion of the Tribunal, be just and equitable in the circumstances of the case;

(f) the termination, setting aside or modification of any agreement between the company and any person other than those referred to in clause (e):

Provided that no such agreement shall be terminated, set aside or modified except after due notice and after obtaining the consent of the party concerned;

(g) the setting aside of any transfer, delivery of goods, payment, execution or other act relating to property made or done by or against the company within three months before the date of the application under this section, which would, if made or done by or against an individual, be deemed in his insolvency to be a fraudulent preference;

(h) removal of the managing director, manager or any of the directors of the company;

(i) recovery of undue gains made by any managing director, manager or director during the period of his appointment as such and the manner of utilisation of the recovery including transfer to Investor Education and Protection Fund or repayment to identifiable victims;

(j) the manner in which the managing director or manager of the company may be appointed subsequent to an order removing the existing managing director or manager of the company made under clause (h);

(k) appointment of such number of persons as directors, who may be required by the Tribunal to report to the Tribunal on such matters as the Tribunal may direct;

(l) imposition of costs as may be deemed fit by the Tribunal;

(m) any other matter for which, in the opinion of the Tribunal, it is just and equitable that provision should be made.

(3) A certified copy of the order of the Tribunal under sub-section (1) shall be filed by the company with the Registrar within thirty days of the order of the Tribunal.

(4) The Tribunal may, on the application of any party to the proceeding, make any interim order which it thinks fit for regulating the conduct of the company's affairs upon such terms and conditions as appear to it to be just and equitable.

(5) Where an order of the Tribunal under sub-section (1) makes any alteration in the memorandum or articles of a company, then, notwithstanding any other provision of this Act, the company shall not have power, except to the extent, if any, permitted in the order, to make, without the leave of the Tribunal, any alteration whatsoever which is inconsistent with the order, either in the memorandum or in the articles.

(6) Subject to the provisions of sub-section (1), the alterations made by the order in the memorandum or articles of a company shall, in all respects, have the same effect as if they had been duly made by the company in accordance with the provisions of this Act and the said provisions shall apply accordingly to the memorandum or articles so altered.

(7) A certified copy of every order altering, or giving leave to alter, a company's memorandum or articles, shall within thirty days after the making thereof, be filed by the company with the Registrar who shall register the same.

(8) If a company contravenes the provisions of sub-section (5), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

243. (1) Where an order made under section 242 terminates, sets aside or modifies an agreement such as is referred to in sub-section (2) of that section,—

Consequence
of termina-
tion or
modification
of certain
agreements.

(a) such order shall not give rise to any claims whatever against the company by any person for damages or for compensation for loss of office or in any other respect either in pursuance of the agreement or otherwise;

(b) no managing director or other director or manager whose agreement is so terminated or set aside shall, for a period of five years from the date of the order terminating or setting aside the agreement, without the leave of the Tribunal, be appointed, or act, as the managing director or other director or manager of the company:

Provided that the Tribunal shall not grant leave under this clause unless notice of the intention to apply for leave has been served on the Central Government and that Government has been given a reasonable opportunity of being heard in the matter.

(2) Any person who knowingly acts as a managing director or other director or manager of a company in contravention of clause (b) of sub-section (1), and every other director of the company who is knowingly a party to such contravention, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five lakh rupees, or with both.

Right to
apply under
section 241.

244. (1) The following members of a company shall have the right to apply under section 241, namely:—

(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members:

Provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause (a) or clause (b) so as to enable the members to apply under section 241.

Explanation.—For the purposes of this sub-section, where any share or shares are held by two or more persons jointly, they shall be counted only as one member.

(2) Where any members of a company are entitled to make an application under sub-section (1), any one or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.

Class action.

245. (1) Such number of member or members, depositor or depositors or any class of them, as the case may be, as are indicated in sub-section (2) may, if they are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file an application before the Tribunal on behalf of the members or depositors for seeking all or any of the following orders, namely:—

(a) to restrain the company from committing an act which is *ultra vires* the articles or memorandum of the company;

(b) to restrain the company from committing breach of any provision of the company's memorandum or articles;

(c) to declare a resolution altering the memorandum or articles of the company as void if the resolution was passed by suppression of material facts or obtained by mis-statement to the members or depositors;

(d) to restrain the company and its directors from acting on such resolution;

(e) to restrain the company from doing an act which is contrary to the provisions of this Act or any other law for the time being in force;

(f) to restrain the company from taking action contrary to any resolution passed by the members;

(g) to claim damages or compensation or demand any other suitable action from or against—

(i) the company or its directors for any fraudulent, unlawful or wrongful act or omission or conduct or any likely act or omission or conduct on its or their part;

(ii) the auditor including audit firm of the company for any improper or misleading statement of particulars made in his audit report or for any fraudulent, unlawful or wrongful act or conduct; or

(iii) any expert or advisor or consultant or any other person for any incorrect or misleading statement made to the company or for any fraudulent, unlawful or wrongful act or conduct or any likely act or conduct on his part;

(h) to seek any other remedy as the Tribunal may deem fit.

(2) Where the members or depositors seek any damages or compensation or demand any other suitable action from or against an audit firm, the liability shall be of the firm as well as of each partner who was involved in making any improper or misleading statement of particulars in the audit report or who acted in a fraudulent, unlawful or wrongful manner.

(3) (i) The requisite number of members provided in sub-section (1) shall be as under:—

(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than such percentage of the total number of its members as may be prescribed, whichever is less, or any member or members holding not less than such percentage of the issued share capital of the company as may be prescribed, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members.

(ii) The requisite number of depositors provided in sub-section (1) shall not be less than one hundred depositors or not less than such percentage of the total number of depositors as may be prescribed, whichever is less, or any depositor or depositors to whom the company owes such percentage of total deposits of the company as may be prescribed.

(4) In considering an application under sub-section (1), the Tribunal shall take into account, in particular—

(a) whether the member or depositor is acting in good faith in making the application for seeking an order;

(b) any evidence before it as to the involvement of any person other than directors or officers of the company on any of the matters provided in clauses (a) to (f) of sub-section (1);

(c) whether the cause of action is one which the member or depositor could pursue in his own right rather than through an order under this section;

(d) any evidence before it as to the views of the members or depositors of the company who have no personal interest, direct or indirect, in the matter being proceeded under this section;

(e) where the cause of action is an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be—

(i) authorised by the company before it occurs; or

(ii) ratified by the company after it occurs;

(f) where the cause of action is an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company.

(5) If an application filed under sub-section (1) is admitted, then the Tribunal shall have regard to the following, namely:—

(a) public notice shall be served on admission of the application to all the members or depositors of the class in such manner as may be prescribed;

(b) all similar applications prevalent in any jurisdiction should be consolidated into a single application and the class members or depositors should be allowed to choose the lead applicant and in the event the members or depositors of the class are unable to come to a consensus, the Tribunal shall have the power to appoint a lead applicant, who shall be in charge of the proceedings from the applicant's side;

(c) two class action applications for the same cause of action shall not be allowed;

(d) the cost or expenses connected with the application for class action shall be defrayed by the company or any other person responsible for any oppressive act.

(6) Any order passed by the Tribunal shall be binding on the company and all its members, depositors and auditor including audit firm or expert or consultant or advisor or any other person associated with the company.

(7) Any company which fails to comply with an order passed by the Tribunal under this section shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(8) Where any application filed before the Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, reject the application and make an order that the applicant shall pay to the opposite party such cost, not exceeding one lakh rupees, as may be specified in the order.

(9) Nothing contained in this section shall apply to a banking company.

(10) Subject to the compliance of this section, an application may be filed or any other action may be taken under this section by any person, group of persons or any association of persons representing the persons affected by any act or omission, specified in sub-section (1).

246. The provisions of sections 337 to 341 (both inclusive) shall apply *mutatis mutandis*, in relation to an application made to the Tribunal under section 241 or section 245.

Application of certain provisions to proceedings under section 241 or section 245.

CHAPTER XVII

REGISTERED VALUERS

Valuation by registered valuers.

247. (1) Where a valuation is required to be made in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets (herein referred to as the assets) or net worth of a company or its liabilities under the provision of this Act, it shall be valued by a person having such qualifications and experience and registered as a valuer in such manner, on such terms and conditions as may be prescribed and appointed by the audit committee or in its absence by the Board of Directors of that company.

(2) The valuer appointed under sub-section (1) shall,—

(a) make an impartial, true and fair valuation of any assets which may be required to be valued;

(b) exercise due diligence while performing the functions as valuer;

(c) make the valuation in accordance with such rules as may be prescribed; and

(d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets.

(3) If a valuer contravenes the provisions of this section or the rules made thereunder, the valuer shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees:

Provided that if the valuer has contravened such provisions with the intention to defraud the company or its members, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(4) Where a valuer has been convicted under sub-section (3), he shall be liable to—

(i) refund the remuneration received by him to the company; and

(ii) pay for damages to the company or to any other person for loss arising out of incorrect or misleading statements of particulars made in his report.

CHAPTER XVIII

REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES

248. (1) Where the Registrar has reasonable cause to believe that—

(a) a company has failed to commence its business within one year of its incorporation;

(b) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay within a period of one hundred and eighty days from the date of incorporation of a company and a declaration under sub-section (1) of section 11 to this effect has not been filed within one hundred and eighty days of its incorporation; or

(c) a company is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under section 455,

he shall send a notice to the company and all the directors of the company, of his intention to remove the name of the company from the register of companies and requesting them to send their representations along with copies of the relevant documents, if any, within a period of thirty days from the date of the notice.

(2) Without prejudice to the provisions of sub-section (1), a company may, after extinguishing all its liabilities, by a special resolution or consent of seventy-five per cent. members in terms of paid-up share capital, file an application in the prescribed manner to the Registrar for removing the name of the company from the register of companies on all or any of the grounds specified in sub-section (1) and the Registrar shall, on receipt of such application, cause a public notice to be issued in the prescribed manner:

Provided that in the case of a company regulated under a special Act, approval of the regulatory body constituted or established under that Act shall also be obtained and enclosed with the application.

(3) Nothing in sub-section (2) shall apply to a company registered under section 8.

(4) A notice issued under sub-section (1) or sub-section (2) shall be published in the prescribed manner and also in the Official Gazette for the information of the general public.

(5) At the expiry of the time mentioned in the notice, the Registrar may, unless cause to the contrary is shown by the company, strike off its name from the register of companies, and shall publish notice thereof in the Official Gazette, and on the publication in the Official Gazette of this notice, the company shall stand dissolved.

(6) The Registrar, before passing an order under sub-section (5), shall satisfy himself that sufficient provision has been made for the realisation of all amount due to the company and for the payment or discharge of its liabilities and obligations by the company within a reasonable time and, if necessary, obtain necessary undertakings from the managing director, director or other persons in charge of the management of the company:

Provided that notwithstanding the undertakings referred to in this sub-section, the assets of the company shall be made available for the payment or discharge of all its liabilities and obligations even after the date of the order removing the name of the company from the register of companies.

(7) The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (5), shall continue and may be enforced as if the company had not been dissolved.

(8) Nothing in this section shall affect the power of the Tribunal to wind up a company the name of which has been struck off from the register of companies.

249. (1) An application under sub-section (2) of section 248 on behalf of a company shall not be made if, at any time in the previous three months, the company—

(a) has changed its name or shifted its registered office from one State to another;

Power of Registrar to remove name of company from register of companies.

Restrictions on making application under section 248 in certain situations.

(b) has made a disposal for value of property or rights held by it, immediately before cesser of trade or otherwise carrying on of business, for the purpose of disposal for gain in the normal course of trading or otherwise carrying on of business;

(c) has engaged in any other activity except the one which is necessary or expedient for the purpose of making an application under that section, or deciding whether to do so or concluding the affairs of the company, or complying with any statutory requirement;

(d) has made an application to the Tribunal for the sanctioning of a compromise or arrangement and the matter has not been finally concluded; or

(e) is being wound up under Chapter XX, whether voluntarily or by the Tribunal.

(2) If a company files an application under sub-section (2) of section 248 in violation of sub-section (1), it shall be punishable with fine which may extend to one lakh rupees.

(3) An application filed under sub-section (2) of section 248 shall be withdrawn by the company or rejected by the Registrar as soon as conditions under sub-section (1) are brought to his notice.

Effect of
company
notified as
dissolved.

250. Where a company stands dissolved under section 248, it shall on and from the date mentioned in the notice under sub-section (5) of that section cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.

Fraudulent
application
for removal
of name.

251. (1) Where it is found that an application by a company under sub-section (2) of section 248 has been made with the object of evading the liabilities of the company or with the intention to deceive the creditors or to defraud any other persons, the persons in charge of the management of the company shall, notwithstanding that the company has been notified as dissolved—

(a) be jointly and severally liable to any person or persons who had incurred loss or damage as a result of the company being notified as dissolved; and

(b) be punishable for fraud in the manner as provided in section 447.

(2) Without prejudice to the provisions contained in sub-section (1), the Registrar may also recommend prosecution of the persons responsible for the filing of an application under sub-section (2) of section 248.

Appeal to
Tribunal.

252. (1) Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies:

Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned :

Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.

(2) A copy of the order passed by the Tribunal shall be filed by the company with the Registrar within thirty days from the date of the order and on receipt of the order, the Registrar shall cause the name of the company to be restored in the register of companies and shall issue a fresh certificate of incorporation.

(3) If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.

CHAPTER XIX

REVIVAL AND REHABILITATION OF SICK COMPANIES

253. (1) Where on a demand by the secured creditors of a company representing fifty per cent. or more of its outstanding amount of debt, the company has failed to pay the debt within a period of thirty days of the service of the notice of demand or to secure or compound it to the reasonable satisfaction of the creditors, any secured creditor may file an application to the Tribunal in the prescribed manner along with the relevant evidence for such default, non-repayment or failure to offer security or compound it, for a determination that the company be declared as a sick company.

Determination
of sickness.

(2) The applicant under sub-section (1) may, along with an application under that sub-section or at any stage of the proceedings thereafter, make an application for the stay of any proceeding for the winding up of the company or for execution, distress or the like against any property and assets of the company or for the appointment of a receiver in respect thereof and that no suit for the recovery of any money or for the enforcement of any security against the company shall lie or be proceeded with.

(3) The Tribunal may pass an order in respect of an application under sub-section (2) which shall be operative for a period of one hundred and twenty days.

(4) The company referred to in sub-section (1) may also file an application to the Tribunal on one or more of the grounds specified in sub-sections (1) and (2) above.

(5) Without prejudice to the provisions of sub-sections (1) to (4), the Central Government or the Reserve Bank of India or a State Government or a public financial institution or a State level institution or a scheduled bank may, if it has sufficient reasons to believe that any company has become, for the purposes of this Act, a sick company, make a reference in respect of such company to the Tribunal for determination of the measures which may be adopted with respect to such company:

Provided that a reference shall not be made under this sub-section in respect of any company by—

(a) the Government of any State unless all or any of the undertakings belonging to such company are situated in such State;

(b) a public financial institution or a State level institution or a scheduled bank unless it has, by reason of any financial assistance or obligation rendered by it, or undertaken by it, with respect to such company, an interest in such company.

(6) Where an application under sub-section (1) or sub-section (4) has been filed,—

(a) the company shall not dispose of or otherwise enter into any obligation with regard to, its properties or assets except as required in the normal course of business;

(b) the Board of Directors shall not take any steps likely to prejudice the interests of the creditors.

(7) The Tribunal shall, within a period of sixty days of the receipt of an application under sub-section (1) or sub-section (4), determine whether the company is a sick company or not:

Provided that no such determination shall be made in respect of an application under sub-section (1) unless the company has been given notice of the application and a reasonable opportunity to reply to the notice within thirty days of the receipt thereof.

(8) If the Tribunal is satisfied that a company has become a sick company, the Tribunal shall, after considering all the relevant facts and circumstances of the case, decide, as soon as may be, by an order in writing, whether it is practicable for the company to make the repayment of its debts referred to in sub-section (1) within a reasonable time.

(9) If the Tribunal deems fit under sub-section (8) that it is practicable for a sick company to pay its debts referred to in that sub-section within a reasonable time, the Tribunal

shall, by order in writing and subject to such restrictions or conditions as may be specified in the order, give such time to the company as it may deem fit to make repayment of the debt.

Application
for revival
and
rehabilitation.

254. (1) On the determination of a company as a sick company by the Tribunal under section 253, any secured creditor of that company or the company may make an application to the Tribunal for the determination of the measures that may be adopted with respect to the revival and rehabilitation of such company:

Provided that in case any reference had been made before the Tribunal and a scheme for revival and rehabilitation submitted, such reference shall abate if the secured creditors representing three-fourths in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002:

54 of 2002.

Provided further that no reference shall be made under this section if the secured creditors representing three-fourths in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002:

54 of 2002.

Provided also that where the financial assets of the sick company had been acquired by any securitisation company or reconstruction company under sub-section (1) of section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, no such application shall be made without the consent of securitisation company or reconstruction company which has acquired such assets.

54 of 2002.

(2) An application under sub-section (1) shall be accompanied by—

(a) audited financial statements of the company relating to the immediately preceding financial year;

(b) such particulars and documents, duly authenticated in such manner, along with such fees as may be prescribed; and

(c) a draft scheme of revival and rehabilitation of the company in such manner as may be prescribed:

Provided that where the sick company has no draft scheme of revival and rehabilitation to offer, it shall file a declaration to that effect along with the application.

(3) An application under sub-section (1) shall be made to the Tribunal within a period of sixty days from the date of determination of the company as a sick company by the Tribunal under section 253.

Exclusion of
certain time
in computing
period of
limitation.

255. Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a company for which an application has been made to the Tribunal under sub-section (1) of section 253, for a determination to be declared as a sick company or at any stage thereafter, the period during which the stay order as provided under sub-section (3) of section 253, was applicable shall be excluded.

36 of 1963.

Appointment
of interim
administrator.

256. (1) On the receipt of an application under section 254, the Tribunal shall, not later than seven days from such receipt,—

(a) fix a date for hearing not later than ninety days from date of its receipt;

(b) appoint an interim administrator to convene a meeting of creditors of the company in accordance with the provisions of section 257 to be held not later than forty-five days from receipt of the order of the Tribunal appointing him to consider whether on the basis of the particulars and documents furnished with the application made under section 254, the draft scheme, if any, filed along with such application or otherwise and any other material available, it is possible to revive and rehabilitate the

sick company and such other matters, which the interim administrator may consider necessary for the purpose and to submit his report to the Tribunal within sixty days from the date of the order:

Provided that where no draft scheme is filed by the company and a declaration has been made to that effect by the Board of Directors, the Tribunal may direct the interim administrator to take over the management of the company; and

(c) issue such other directions to the interim administrator as the Tribunal may consider necessary to protect and preserve the assets of the sick company and for its proper management.

(2) Where an interim administrator has been directed to take over the management of the company, the directors and the management of the company shall extend all possible assistance and cooperation to the interim administrator to manage the affairs of the company.

257. (1) The interim administrator shall appoint a committee of creditors with such number of members as he may determine, but not exceeding seven, and as far as possible a representative each of every class of creditors should be represented in that committee.

Committee of creditors.

(2) The holding of the meeting of the committee of creditors and the procedure to be followed at such meetings, including the appointment of its chairperson, shall be decided by the interim administrator.

(3) The interim administrator may direct any promoter, director or any key managerial personnel to attend any meeting of the committee of creditors and to furnish such information as may be considered necessary by the interim administrator.

258. On the date of hearing fixed by the Tribunal and on consideration of the report of the interim administrator filed under sub-section (1) of section 256, if the Tribunal is satisfied that the creditors representing three-fourths in value of the amount outstanding against the sick company present and voting have resolved that—

Order of Tribunal.

(a) it is not possible to revive and rehabilitate such company, the Tribunal shall record such opinion and order that the proceedings for the winding up of the company be initiated; or

(b) by adopting certain measures the sick company may be revived and rehabilitated, the Tribunal shall appoint a company administrator for the company and cause such administrator to prepare a scheme of revival and rehabilitation of the sick company:

Provided that the Tribunal may, if it thinks fit, appoint an interim administrator as the company administrator.

259. (1) The interim administrator or the company administrator, as the case may be, shall be appointed by the Tribunal from a databank maintained by the Central Government or any institute or agency authorised by the Central Government in a manner as may be prescribed consisting of the names of company secretaries, chartered accountants, cost accountants and such other professionals as may, by notification, be specified by the Central Government.

Appointment of administrator.

(2) The terms and conditions of the appointment of interim and company administrators shall be such as may be ordered by the Tribunal.

(3) The Tribunal may direct the company administrator to take over the assets or management of the company and for the purpose of assisting him in the management of the company, the company administrator may, with the approval of the Tribunal, engage the services of suitable expert or experts.

Powers and
duties of
company
administrator.

260. (1) The company administrator shall perform such functions as the Tribunal may direct.

(2) Without prejudice to the provisions of sub-section (1), the company administrator may cause to be prepared with respect to the company—

(a) a complete inventory of—

(i) all assets and liabilities of whatever nature;

(ii) all books of account, registers, maps, plans, records, documents of title and all other documents of whatever nature;

(b) a list of shareholders and a list of creditors showing separately in the list of creditors, the secured creditors and unsecured creditors;

(c) a valuation report in respect of the shares and assets in order to arrive at the reserve price for the sale of any industrial undertaking of the company or for the fixation of the lease rent or share exchange ratio;

(d) an estimate of the reserve price, lease rent or share exchange ratio;

(e) proforma accounts of the company, where no up-to-date audited accounts are available; and

(f) a list of workmen of the company and their dues referred to in sub-section (3) of section 325.

Scheme of
revival and
rehabilitation.

261. (1) The company administrator shall prepare or cause to be prepared a scheme of revival and rehabilitation of the sick company after considering the draft scheme filed along with the application under section 254.

(2) A scheme prepared in relation to any sick company under sub-section (1) may provide for any one or more of the following measures, namely:—

(a) the financial reconstruction of the sick company;

(b) the proper management of the sick company by any change in, or by taking over, the management of such company;

(c) the amalgamation of—

(i) the sick company with any other company; or

(ii) any other company with the sick company;

(d) takeover of the sick company by a solvent company;

(e) the sale or lease of a part or whole of any asset or business of the sick company;

(f) the rationalisation of managerial personnel, supervisory staff and workmen in accordance with law;

(g) such other preventive, ameliorative, and remedial measures as may be appropriate;

(h) repayment or rescheduling or restructuring of the debts or obligations of the sick company to any of its creditors or class of creditors;

(i) such incidental, consequential or supplemental measures as may be necessary or expedient in connection with or for the purposes of the measures specified in clauses (a) to (h).

Sanction of
scheme.

262. (1) The scheme prepared by the company administrator under section 261 shall be placed before the creditors of the sick company in a meeting convened for their approval by the company administrator within the period of sixty days from his appointment, which may be extended by the Tribunal up to a period not exceeding one hundred twenty days.

(2) The company administrator shall convene separate meetings of secured and unsecured creditors of the sick company and if the scheme is approved by the unsecured creditors representing one-fourth in value of the amount owed by the company to such creditors and the secured creditors, representing three-fourths in value of the amount outstanding against financial assistance disbursed by such creditors to the sick company, the company administrator shall submit the scheme before the Tribunal for sanctioning the scheme:

Provided that where the scheme relates to amalgamation of the sick company with any other company, such scheme shall, in addition to the approval of the creditors of the sick company under this sub-section, be laid before the general meeting of both the companies for approval by their respective shareholders and no such scheme shall be proceeded with unless it has been approved, with or without modification, by a special resolution passed by the shareholders of that company.

(3) (i) The scheme prepared by the company administrator shall be examined by the Tribunal and a copy of the scheme with modification, if any, made by the Tribunal shall be sent, in draft, to the sick company and the company administrator and in the case of amalgamation, also to any other company concerned, and the Tribunal may publish or cause to be published the draft scheme in brief in such daily newspapers as the Tribunal may consider necessary, for suggestions and objections, if any, within such period as the Tribunal may specify.

(ii) The complete draft scheme shall be kept at the place where registered office of the company is situated or at such places as mentioned in the advertisement.

(iii) The Tribunal may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the sick company and the company administrator and also from the transferee company and any other company concerned in the amalgamation and from any shareholder or any creditors or employees of such companies.

(4) On the receipt of the scheme under sub-section (3), the Tribunal shall within sixty days therefrom, after satisfying that the scheme had been validly approved in accordance with this section, pass an order sanctioning such scheme.

(5) Where a sanctioned scheme provides for the transfer of any property or liability of the sick company to any other company or person or where such scheme provides for the transfer of any property or liability of any other company or person in favour of the sick company, then, by virtue of, and to the extent provided in, the scheme, on and from the date of coming into operation of the sanctioned scheme or any provision thereof, the property shall be transferred to, and vest in, and the liability shall become the liability of, such other company or person or, as the case may be, the sick company.

(6) The Tribunal may review any sanctioned scheme and make such modifications, as it may deem fit, or may by order in writing direct company administrator, to prepare a fresh scheme providing for such measures as the company administrator may consider necessary.

(7) The sanction accorded by the Tribunal under sub-section (4) shall be conclusive evidence that all the requirements of the scheme relating to the reconstruction or amalgamation or any other measure specified therein have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Tribunal to be a true copy thereof shall in all legal proceedings be admitted as evidence.

(8) A copy of the sanctioned scheme referred to in sub-section (4) shall be filed with the Registrar by the sick company within a period of thirty days from the date of receipt of a copy thereof.

263. On and from the date of the coming into operation of the sanctioned scheme or any provision thereof, the scheme or such provision shall be binding on the sick company

Scheme to be binding.

and the transferee company or, as the case may be, the other company and also on the employees, shareholders, creditors and guarantors of the said companies.

Implementation
of scheme.

264. (1) The Tribunal shall, for the purpose of effective implementation of the scheme, have power to enforce, modify or terminate any contract or agreement or any obligation pursuant to such agreement or contract entered into by the company with any other person.

(2) The Tribunal may, if it deems necessary or expedient so to do, by order in writing, authorise the company administrator appointed under section 259 to implement a sanctioned scheme till its successful implementation on such terms and conditions as may be specified in the order and may for that purpose require him to file periodic reports on the implementation of the sanctioned scheme.

(3) Where the whole or substantial assets of the undertaking of the sick company are sold under a sanctioned scheme, the sale proceeds shall be applied towards implementation of the scheme in such manner as the Tribunal may direct:

Provided that debtors and creditors shall have the power to scrutinise and make an appeal for review of the value before final order of fixing value.

(4) Where it is difficult to implement the scheme for any reason or the scheme fails due to non-implementation of obligations under the scheme by the parties concerned, the company administrator authorised to implement the scheme and where there is no such administrator, the company, the secured creditors, or the transferee company in a case of amalgamation, may make an application before the Tribunal for modification of the scheme or to declare the scheme as failed and that the company may be wound up.

(5) The Tribunal shall, within thirty days of presentation of an application under sub-section (4), pass an order for modification of the scheme or, as the case may be, declaring the scheme as failed and pass an order for the winding up of the company if three-fourths in value of the secured creditors consent to the modification of the scheme or winding up of the company.

(6) Where an application under sub-section (4) has been made before the Tribunal and such application is pending before it, such application shall abate, if the secured creditors representing not less than three-fourths in value of the amount outstanding against financial assistance disbursed to the sick company have taken any measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

54 of 2002.

Winding up of
company on
report of
company
administrator.

265. (1) If the scheme is not approved by the creditors in the manner specified in sub-section (2) of section 262, the company administrator shall submit a report to the Tribunal within fifteen days and the Tribunal shall order for the winding up of the sick company.

(2) On the passing of an order under sub-section (1), the Tribunal shall conduct the proceedings for winding up of the sick company in accordance with the provisions of Chapter XX.

Power of
Tribunal to
assess
damages
against
delinquent
directors, etc.

266. (1) If, in the course of the scrutiny or implementation of any scheme or proposal including the draft scheme or proposal, it appears to the Tribunal that any person who has taken part in the promotion, formation or management of the sick company or its undertaking, including any director, manager, officer or employee of the sick company who are or have been in employment of such company,—

(a) has misapplied or retained, or become liable or accountable for, any money or property of the sick company; or

(b) has been guilty of any misfeasance, malfeasance, non-feasance or breach of trust in relation to the sick company,

it may, by order, direct him to repay or restore the money or property, with or without interest, as it thinks just, or to contribute such sum to the assets of the sick company or the other person, entitled thereto by way of compensation in respect of the misapplication, retainer,

misfeasance, malfeasance, non-feasance or breach of trust as the Tribunal thinks just and proper:

Provided that such direction by the Tribunal shall be without prejudice to any other legal action that may be taken against the person including any punishment for fraud in the manner as provided in section 447.

(2) If the Tribunal is satisfied on the basis of the information and evidence in its possession with respect to any person who is or was a director or an officer or other employee of the sick company, that such person by himself or along with others had diverted the funds or other property of such company for any purpose other than the purposes of the company or had managed the affairs of the company in a manner highly detrimental to the interests of the company, the Tribunal shall, by order, direct the public financial institutions, scheduled banks and State level institutions not to provide, for a maximum period of ten years from the date of the order, any financial assistance to such person or any firm of which such person is a partner or any company or other body corporate of which such person is a director, by whatever name called, or to disqualify the said director, promoter, manager from being appointed as a director in any company registered under this Act for a maximum period of six years.

(3) No order shall be made by the Tribunal under this section against any person unless such person has been given a reasonable opportunity of being heard.

267. Whoever violates the provisions of this Chapter or any scheme, or any order, of the Tribunal or the Appellate Tribunal or makes a false statement or gives false evidence before the Tribunal or the Appellate Tribunal or attempts to tamper with the records of reference or appeal filed under this Act, he shall be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to ten lakh rupees.

Punishment
for certain
offences.

268. No appeal shall lie in any court or other authority and no civil court shall have any jurisdiction in respect of any matter in respect of which the Tribunal or the Appellate Tribunal is empowered by or under this Chapter and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Chapter.

Bar of
jurisdiction.

269. (1) There shall be formed a Fund to be called the Rehabilitation and Insolvency Fund for the purposes of rehabilitation, revival and liquidation of the sick companies.

Rehabilitation
and
Insolvency
Fund.

(2) There shall be credited to the Fund—

- (a) the grants made by the Central Government for the purposes of the Fund;
- (b) the amount deposited by the companies as contribution to the Fund;
- (c) the amount given to the Fund from any other source; and
- (d) the income from investment of the amount in the Fund.

(3) A company which has contributed any amount to the Fund shall, in the event of proceedings initiated in respect of such company under this Chapter or Chapter XX, may make an application to the Tribunal for withdrawal of funds not exceeding the amount contributed by it, for making payments to workmen, protecting the assets of the company or meeting the incidental costs during proceedings.

(4) The Fund shall be managed by an administrator to be appointed by the Central Government in such manner as may be prescribed.

CHAPTER XX

WINDING UP

270. (1) The winding up of a company may be either—

- (a) by the Tribunal; or
- (b) voluntary.

Modes of
winding up.

(2) Notwithstanding anything contained in any other Act, the provisions of this Act with respect to winding up shall apply to the winding up of a company in any of the modes specified under sub-section (1).

PART I.—Winding up by the Tribunal

Circumstances
in which
company
may be wound
up by
Tribunal.

271. (1) A company may, on a petition under section 272, be wound up by the Tribunal,—

- (a) if the company is unable to pay its debts;
- (b) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;
- (c) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;
- (d) if the Tribunal has ordered the winding up of the company under Chapter XIX;
- (e) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;
- (f) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or
- (g) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up.

(2) A company shall be deemed to be unable to pay its debts,—

- (a) if a creditor, by assignment or otherwise, to whom the company is indebted for an amount exceeding one lakh rupees then due, has served on the company, by causing it to be delivered at its registered office, by registered post or otherwise, a demand requiring the company to pay the amount so due and the company has failed to pay the sum within twenty-one days after the receipt of such demand or to provide adequate security or re-structure or compound the debt to the reasonable satisfaction of the creditor;
- (b) if any execution or other process issued on a decree or order of any court or tribunal in favour of a creditor of the company is returned unsatisfied in whole or in part; or
- (c) if it is proved to the satisfaction of the Tribunal that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Tribunal shall take into account the contingent and prospective liabilities of the company.

Petition for
winding up.

272. (1) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—

- (a) the company;
- (b) any creditor or creditors, including any contingent or prospective creditor or creditors;
- (c) any contributory or contributories;

(d) all or any of the persons specified in clauses (a), (b) and (c) together;

(e) the Registrar;

(f) any person authorised by the Central Government in that behalf; or

(g) in a case falling under clause (c) of sub-section (1) of section 271, by the Central Government or a State Government.

(2) A secured creditor, the holder of any debentures, whether or not any trustee or trustees have been appointed in respect of such and other like debentures, and the trustee for the holders of debentures shall be deemed to be creditors within the meaning of clause (b) of sub-section (1).

(3) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.

(4) The Registrar shall be entitled to present a petition for winding up under sub-section (1) on any of the grounds specified in sub-section (1) of section 271, except on the grounds specified in clause (b), clause (d) or clause (g) of that sub-section:

Provided that the Registrar shall not present a petition on the ground that the company is unable to pay its debts unless it appears to him either from the financial condition of the company as disclosed in its balance sheet or from the report of an inspector appointed under section 210 that the company is unable to pay its debts:

Provided further that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:

Provided also that the Central Government shall not accord its sanction unless the company has been given a reasonable opportunity of making representations.

(5) A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.

(6) Before a petition for winding up of a company presented by a contingent or prospective creditor is admitted, the leave of the Tribunal shall be obtained for the admission of the petition and such leave shall not be granted, unless in the opinion of the Tribunal there is a *prima facie* case for the winding up of the company and until such security for costs has been given as the Tribunal thinks reasonable.

(7) A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition.

273. (1) The Tribunal may, on receipt of a petition for winding up under section 272 pass any of the following orders, namely:—

Powers of
Tribunal.

(a) dismiss it, with or without costs;

(b) make any interim order as it thinks fit;

(c) appoint a provisional liquidator of the company till the making of a winding up order;

(d) make an order for the winding up of the company with or without costs; or

(e) any other order as it thinks fit:

Provided that an order under this sub-section shall be made within ninety days from the date of presentation of the petition:

Provided further that before appointing a provisional liquidator under clause (c), the Tribunal shall give notice to the company and afford a reasonable opportunity to it to make its representations, if any, unless for special reasons to be recorded in writing, the Tribunal thinks fit to dispense with such notice:

Provided also that the Tribunal shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged for an amount equal to or in excess of those assets, or that the company has no assets.

(2) Where a petition is presented on the ground that it is just and equitable that the company should be wound up, the Tribunal may refuse to make an order of winding up, if it is of the opinion that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing the other remedy.

Directions for
filing
statement of
affairs.

274. (1) Where a petition for winding up is filed before the Tribunal by any person other than the company, the Tribunal shall, if satisfied that a *prima facie* case for winding up of the company is made out, by an order direct the company to file its objections along with a statement of its affairs within thirty days of the order in such form and in such manner as may be prescribed:

Provided that the Tribunal may allow a further period of thirty days in a situation of contingency or special circumstances:

Provided further that the Tribunal may direct the petitioner to deposit such security for costs as it may consider reasonable as a precondition to issue directions to the company.

(2) A company, which fails to file the statement of affairs as referred to in sub-section (1), shall forfeit the right to oppose the petition and such directors and officers of the company as found responsible for such non-compliance, shall be liable for punishment under sub-section (4).

(3) The directors and other officers of the company, in respect of which an order for winding up is passed by the Tribunal under clause (d) of sub-section (1) of section 273, shall, within a period of thirty days of such order, submit, at the cost of the company, the books of account of the company completed and audited up to the date of the order, to such liquidator and in the manner specified by the Tribunal.

(4) If any director or officer of the company contravenes the provisions of this section, the director or the officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

(5) The complaint may be filed in this behalf before the Special Court by Registrar, provisional liquidator, Company Liquidator or any person authorised by the Tribunal.

Company
Liquidators
and their
appointments.

275. (1) For the purposes of winding up of a company by the Tribunal, the Tribunal at the time of the passing of the order of winding up, shall appoint an Official Liquidator or a liquidator from the panel maintained under sub-section (2) as the Company Liquidator.

(2) The provisional liquidator or the Company Liquidator, as the case may be, shall be appointed from a panel maintained by the Central Government consisting of the names of chartered accountants, advocates, company secretaries, cost accountants or firms or bodies corporate having such chartered accountants, advocates, company secretaries, cost accountants and such other professionals as may be notified by the Central Government or from a firm or a body corporate of persons having a combination of such professionals as may be prescribed and having at least ten years' experience in company matters.

(3) Where a provisional liquidator is appointed by the Tribunal, the Tribunal may limit and restrict his powers by the order appointing him or it or by a subsequent order, but otherwise he shall have the same powers as a liquidator.

(4) The Central Government may remove the name of any person or firm or body

corporate from the panel maintained under sub-section (2) on the grounds of misconduct, fraud, misfeasance, breach of duties or professional incompetence:

Provided that the Central Government before removing him or it from the panel shall give him or it a reasonable opportunity of being heard.

(5) The terms and conditions of appointment of a provisional liquidator or Company Liquidator and the fee payable to him or it shall be specified by the Tribunal on the basis of task required to be performed, experience, qualification of such liquidator and size of the company.

(6) On appointment as provisional liquidator or Company Liquidator, as the case may be, such liquidator shall file a declaration within seven days from the date of appointment in the prescribed form disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the Tribunal and such obligation shall continue throughout the term of his appointment.

(7) While passing a winding up order, the Tribunal may appoint a provisional liquidator, if any, appointed under clause (c) of sub-section (1) of section 273, as the Company Liquidator for the conduct of the proceedings for the winding up of the company.

276. (1) The Tribunal may, on a reasonable cause being shown and for reasons to be recorded in writing, remove the provisional liquidator or the Company Liquidator, as the case may be, as liquidator of the company on any of the following grounds, namely:—

Removal and replacement of liquidator.

(a) misconduct;

(b) fraud or misfeasance;

(c) professional incompetence or failure to exercise due care and diligence in performance of the powers and functions;

(d) inability to act as provisional liquidator or as the case may be, Company Liquidator;

(e) conflict of interest or lack of independence during the term of his appointment that would justify removal.

(2) In the event of death, resignation or removal of the provisional liquidator or as the case may be, Company Liquidator, the Tribunal may transfer the work assigned to him or it to another Company Liquidator for reasons to be recorded in writing.

(3) Where the Tribunal is of the opinion that any liquidator is responsible for causing any loss or damage to the company due to fraud or misfeasance or failure to exercise due care and diligence in the performance of his or its powers and functions, the Tribunal may recover or cause to be recovered such loss or damage from the liquidator and pass such other orders as it may think fit.

(4) The Tribunal shall, before passing any order under this section, provide a reasonable opportunity of being heard to the provisional liquidator or, as the case may be, Company Liquidator.

277. (1) Where the Tribunal makes an order for appointment of provisional liquidator or for the winding up of a company, it shall, within a period not exceeding seven days from the date of passing of the order, cause intimation thereof to be sent to the Company Liquidator or provisional liquidator, as the case may be, and the Registrar.

Intimation to Company Liquidator, provisional liquidator and Registrar.

(2) On receipt of the copy of order of appointment of provisional liquidator or winding up order, the Registrar shall make an endorsement to that effect in his records relating to the company and notify in the Official Gazette that such an order has been made and in the case of a listed company, the Registrar shall intimate about such appointment or order, as the case may be, to the stock exchange or exchanges where the securities of the company are listed.

(3) The winding up order shall be deemed to be a notice of discharge to the officers, employees and workmen of the company, except when the business of the company is continued.

(4) Within three weeks from the date of passing of winding up order, the Company Liquidator shall make an application to the Tribunal for constitution of a winding up committee to assist and monitor the progress of liquidation proceedings by the Company Liquidator in carrying out the function as provided in sub-section (5) and such winding up committee shall comprise of the following persons, namely:—

- (i) Official Liquidator attached to the Tribunal;
- (ii) nominee of secured creditors; and
- (iii) a professional nominated by the Tribunal.

(5) The Company Liquidator shall be the convener of the meetings of the winding up committee which shall assist and monitor the liquidation proceedings in following areas of liquidation functions, namely:—

- (i) taking over assets;
- (ii) examination of the statement of affairs;
- (iii) recovery of property, cash or any other assets of the company including benefits derived therefrom;
- (iv) review of audit reports and accounts of the company;
- (v) sale of assets;
- (vi) finalisation of list of creditors and contributories;
- (vii) compromise, abandonment and settlement of claims;
- (viii) payment of dividends, if any; and
- (ix) any other function, as the Tribunal may direct from time to time.

(6) The Company Liquidator shall place before the Tribunal a report along with minutes of the meetings of the committee on monthly basis duly signed by the members present in the meeting for consideration till the final report for dissolution of the company is submitted before the Tribunal.

(7) The Company Liquidator shall prepare the draft final report for consideration and approval of the winding up committee.

(8) The final report so approved by the winding up committee shall be submitted by the Company Liquidator before the Tribunal for passing of a dissolution order in respect of the company.

Effect of
winding up
order.

278. The order for the winding up of a company shall operate in favour of all the creditors and all contributories of the company as if it had been made out on the joint petition of creditors and contributories.

Stay of suits,
etc., on
winding up
order.

279. (1) When a winding up order has been passed or a provisional liquidator has been appointed, no suit or other legal proceeding shall be commenced, or if pending at the date of the winding up order, shall be proceeded with, by or against the company, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose:

Provided that any application to the Tribunal seeking leave under this section shall be disposed of by the Tribunal within sixty days.

(2) Nothing in sub-section (1) shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.

280. The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,— Jurisdiction of Tribunal.

- (a) any suit or proceeding by or against the company;
- (b) any claim made by or against the company, including claims by or against any of its branches in India;
- (c) any application made under section 233;
- (d) any scheme submitted under section 262;
- (e) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company,

whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made.

281. (1) Where the Tribunal has made a winding up order or appointed a Company Liquidator, such liquidator shall, within sixty days from the order, submit to the Tribunal, a report containing the following particulars, namely:—

Submission of report by Company Liquidator.

- (a) the nature and details of the assets of the company including their location and value, stating separately the cash balance in hand and in the bank, if any, and the negotiable securities, if any, held by the company;

Provided that the valuation of the assets shall be obtained from registered valuers for this purpose;

- (b) amount of capital issued, subscribed and paid-up;
- (c) the existing and contingent liabilities of the company including names, addresses and occupations of its creditors, stating separately the amount of secured and unsecured debts, and in the case of secured debts, particulars of the securities given, whether by the company or an officer thereof, their value and the dates on which they were given;
- (d) the debts due to the company and the names, addresses and occupations of the persons from whom they are due and the amount likely to be realised on account thereof;
- (e) guarantees, if any, extended by the company;
- (f) list of contributories and dues, if any, payable by them and details of any unpaid call;
- (g) details of trade marks and intellectual properties, if any, owned by the company;
- (h) details of subsisting contracts, joint ventures and collaborations, if any;
- (i) details of holding and subsidiary companies, if any;
- (j) details of legal cases filed by or against the company; and
- (k) any other information which the Tribunal may direct or the Company Liquidator may consider necessary to include.

(2) The Company Liquidator shall include in his report the manner in which the company was promoted or formed and whether in his opinion any fraud has been committed by any person in its promotion or formation or by any officer of the company in relation to the company since the formation thereof and any other matters which, in his opinion, it is desirable to bring to the notice of the Tribunal.

(3) The Company Liquidator shall also make a report on the viability of the business of the company or the steps which, in his opinion, are necessary for maximising the value of the assets of the company.

(4) The Company Liquidator may also, if he thinks fit, make any further report or reports.

(5) Any person describing himself in writing to be a creditor or a contributory of the company shall be entitled by himself or by his agent at all reasonable times to inspect the report submitted in accordance with this section and take copies thereof or extracts therefrom on payment of the prescribed fees.

Directions of
Tribunal on
report of
Company
Liquidator.

282. (1) The Tribunal shall, on consideration of the report of the Company Liquidator, fix a time limit within which the entire proceedings shall be completed and the company be dissolved:

Provided that the Tribunal may, if it is of the opinion, at any stage of the proceedings, or on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, that it will not be advantageous or economical to continue the proceedings, revise the time limit within which the entire proceedings shall be completed and the company be dissolved.

(2) The Tribunal may, on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, order sale of the company as a going concern or its assets or part thereof:

Provided that the Tribunal may, where it considers fit, appoint a sale committee comprising such creditors, promoters and officers of the company as the Tribunal may decide to assist the Company Liquidator in sale under this sub-section.

(3) Where a report is received from the Company Liquidator or the Central Government or any person that a fraud has been committed in respect of the company, the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 210, and on consideration of the report of such investigation it may pass order and give directions under sections 339 to 342 or direct the Company Liquidator to file a criminal complaint against persons who were involved in the commission of fraud.

(4) The Tribunal may order for taking such steps and measures, as may be necessary, to protect, preserve or enhance the value of the assets of the company.

(5) The Tribunal may pass such other order or give such other directions as it considers fit.

Custody of
company's
properties.

283. (1) Where a winding up order has been made or where a provisional liquidator has been appointed, the Company Liquidator or the provisional liquidator, as the case may be, shall, on the order of the Tribunal, forthwith take into his or its custody or control all the property, effects and actionable claims to which the company is or appears to be entitled to and take such steps and measures, as may be necessary, to protect and preserve the properties of the company.

(2) Notwithstanding anything contained in sub-section (1), all the property and effects of the company shall be deemed to be in the custody of the Tribunal from the date of the order for the winding up of the company.

(3) On an application by the Company Liquidator or otherwise, the Tribunal may, at any time after the making of a winding up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, officer or other employee of the company, to pay, deliver, surrender or transfer forthwith, or within such time as the

Tribunal directs, to the Company Liquidator, any money, property or books and papers in his custody or under his control to which the company is or appears to be entitled.

284. (1) The promoters, directors, officers and employees, who are or have been in employment of the company or acting or associated with the company shall extend full cooperation to the Company Liquidator in discharge of his functions and duties.

Promoters, directors, etc., to cooperate with Company Liquidator.

(2) Where any person, without reasonable cause, fails to discharge his obligations under sub-section (1), he shall be punishable with imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

285. (1) As soon as may be after the passing of a winding up order by the Tribunal, the Tribunal shall settle a list of contributories, cause rectification of register of members in all cases where rectification is required in pursuance of this Act and shall cause the assets of the company to be applied for the discharge of its liability:

Settlement of list of contributories and application of assets.

Provided that where it appears to the Tribunal that it would not be necessary to make calls on or adjust the rights of contributories, the Tribunal may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the Tribunal shall distinguish between those who are contributories in their own right and those who are contributories as being representatives of, or liable for the debts of, others.

(3) While settling the list of contributories, the Tribunal shall include every person, who is or has been a member, who shall be liable to contribute to the assets of the company an amount sufficient for payment of the debts and liabilities and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, subject to the following conditions, namely:—

(a) a person who has been a member shall not be liable to contribute if he has ceased to be a member for the preceding one year or more before the commencement of the winding up;

(b) a person who has been a member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;

(c) no person who has been a member shall be liable to contribute unless it appears to the Tribunal that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(d) in the case of a company limited by shares, no contribution shall be required from any person, who is or has been a member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as such member;

(e) in the case of a company limited by guarantee, no contribution shall be required from any person, who is or has been a member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up but if the company has a share capital, such member shall be liable to contribute to the extent of any sum unpaid on any shares held by him as if the company were a company limited by shares.

286. In the case of a limited company, any person who is or has been a director or manager, whose liability is unlimited under the provisions of this Act, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of winding up, a member of an unlimited company:

Obligations of directors and managers.

Provided that —

(a) a person who has been a director or manager shall not be liable to make such further contribution, if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(h) a person who has been a director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(c) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Tribunal deems it necessary to require the contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

Advisory
committee.

287. (1) The Tribunal may, while passing an order of winding up of a company, direct that there shall be, an advisory committee to advise the Company Liquidator and to report to the Tribunal on such matters as the Tribunal may direct.

(2) The advisory committee appointed by the Tribunal shall consist of not more than twelve members, being creditors and contributories of the company or such other persons in such proportion as the Tribunal may, keeping in view the circumstances of the company under liquidation, direct.

(3) The Company Liquidator shall convene a meeting of creditors and contributories, as ascertained from the books and documents, of the company within thirty days from the date of order of winding up for enabling the Tribunal to determine the persons who may be members of the advisory committee.

(4) The advisory committee shall have the right to inspect the books of account and other documents, assets and properties of the company under liquidation at a reasonable time.

(5) The provisions relating to the convening of the meetings, the procedure to be followed thereat and other matters relating to conduct of business by the advisory committee shall be such as may be prescribed.

(6) The meeting of advisory committee shall be chaired by the Company Liquidator.

Submission of
periodical
reports to
Tribunal.

288. (1) The Company Liquidator shall make periodical reports to the Tribunal and in any case make a report at the end of each quarter with respect to the progress of the winding up of the company in such form and manner as may be prescribed.

(2) The Tribunal may, on an application by the Company Liquidator, review the orders made by it and make such modifications as it thinks fit.

Power of
Tribunal on
application
for stay of
winding up.

289. (1) The Tribunal may, at any time after making a winding up order, on an application of promoter, shareholders or creditors or any other interested person, if satisfied, make an order that it is just and fair that an opportunity to revive and rehabilitate the company be provided staying the proceedings for such time but not exceeding one hundred and eighty days and on such terms and conditions as it thinks fit:

Provided that an order under this sub-section shall be made by the Tribunal only when the application is accompanied with a scheme for rehabilitation.

(2) The Tribunal may, while passing the order under sub-section (1), require the applicant to furnish such security as to costs as it considers fit.

(3) Where an order under sub-section (1) is passed by the Tribunal, the provisions of Chapter XIX shall be followed in respect of the consideration and sanction of the scheme of revival of the company.

(4) Without prejudice to the provisions of sub-section (1), the Tribunal may at any time after making a winding up order, on an application of the Company Liquidator, make an order staying the winding up proceedings or any part thereof, for such time and on such terms and conditions as it thinks fit.

(5) The Tribunal may, before making an order, under this section, require the Company Liquidator to furnish to it a report with respect to any facts or matters which are in his opinion relevant to the application.

(6) A copy of every order made under this section shall forthwith be forwarded by the Company Liquidator to the Registrar who shall make an endorsement of the order in his books and records relating to the company.

290. (1) Subject to directions by the Tribunal, if any, in this regard, the Company Liquidator, in a winding up of a company by the Tribunal, shall have the power—

Powers and
duties of
Company
Liquidator.

(a) to carry on the business of the company so far as may be necessary for the beneficial winding up of the company;

(b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose, to use, when necessary, the company's seal;

(c) to sell the immovable and movable property and actionable claims of the company by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels;

(d) to sell the whole of the undertaking of the company as a going concern;

(e) to raise any money required on the security of the assets of the company;

(f) to institute or defend any suit, prosecution or other legal proceeding, civil or criminal, in the name and on behalf of the company;

(g) to invite and settle claim of creditors, employees or any other claimant and distribute sale proceeds in accordance with priorities established under this Act;

(h) to inspect the records and returns of the company on the files of the Registrar or any other authority;

(i) to prove rank and claim in the insolvency of any contributory for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors;

(j) to draw, accept, make and endorse any negotiable instruments including cheque, bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if such instruments had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business;

(k) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases, the money due shall, for the purpose of enabling the Company Liquidator to take out the letters of administration or recover the money, be deemed to be due to the Company Liquidator himself;

(l) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities and for protection of the assets of the company, appoint an agent to do any business which the Company Liquidator is unable to do himself;

(m) to take all such actions, steps, or to sign, execute and verify any paper, deed, document, application, petition, affidavit, bond or instrument as may be necessary,—

(i) for winding up of the company;

(ii) for distribution of assets;

(iii) in discharge of his duties and obligations and functions as Company Liquidator; and

(n) to apply to the Tribunal for such orders or directions as may be necessary for the winding up of the company.

(2) The exercise of powers by the Company Liquidator under sub-section (1) shall be subject to the overall control of the Tribunal.

(3) Notwithstanding the provisions of sub-section (1), the Company Liquidator shall perform such other duties as the Tribunal may specify in this behalf.

Provision for professional assistance to Company Liquidator.

291. (1) The Company Liquidator may, with the sanction of the Tribunal, appoint one or more chartered accountants or company secretaries or cost accountants or legal practitioners or such other professionals on such terms and conditions, as may be necessary, to assist him in the performance of his duties and functions under this Act.

(2) Any person appointed under this section shall disclose forthwith to the Tribunal in the prescribed form any conflict of interest or lack of independence in respect of his appointment.

Exercise and control of Company Liquidator's powers.

292. (1) Subject to the provisions of this Act, the Company Liquidator shall, in the administration of the assets of the company and the distribution thereof among its creditors, have regard to any directions which may be given by the resolution of the creditors or contributories at any general meeting or by the advisory committee.

(2) Any directions given by the creditors or contributories at any general meeting shall, in case of conflict, be deemed to override any directions given by the advisory committee.

(3) The Company Liquidator—

(a) may summon meetings of the creditors or contributories, whenever he thinks fit, for the purpose of ascertaining their wishes; and

(b) shall summon such meetings at such times, as the creditors or contributories, as the case may be, may, by resolution, direct, or whenever requested in writing to do so by not less than one-tenth in value of the creditors or contributories, as the case may be.

(4) Any person aggrieved by any act or decision of the Company Liquidator may apply to the Tribunal, and the Tribunal may confirm, reverse or modify the act or decision complained of and make such further order as it thinks just and proper in the circumstances.

Books to be kept by Company Liquidator.

293. (1) The Company Liquidator shall keep proper books in such manner, as may be prescribed, in which he shall cause entries or minutes to be made of proceedings at meetings and of such other matters as may be prescribed.

(2) Any creditor or contributory may, subject to the control of the Tribunal, inspect any such books, personally or through his agent.

Audit of Company Liquidator's accounts.

294. (1) The Company Liquidator shall maintain proper and regular books of account including accounts of receipts and payments made by him in such form and manner as may be prescribed.

(2) The Company Liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, present to the Tribunal an account of the receipts and payments as such liquidator in the prescribed form in duplicate, which shall be verified by a declaration in such form and manner as may be prescribed.

(3) The Tribunal shall cause the accounts to be audited in such manner as it thinks fit, and for the purpose of the audit, the Company Liquidator shall furnish to the Tribunal with such vouchers and information as the Tribunal may require, and the Tribunal may, at any

time, require the production of, and inspect, any books of account kept by the Company Liquidator.

(4) When the accounts of the company have been audited, one copy thereof shall be filed by the Company Liquidator with the Tribunal, and the other copy shall be delivered to the Registrar which shall be open to inspection by any creditor, contributory or person interested.

(5) Where an account referred to in sub-section (4) relates to a Government company, the Company Liquidator shall forward a copy thereof—

(a) to the Central Government, if that Government is a member of the Government company; or

(b) to any State Government, if that Government is a member of the Government company; or

(c) to the Central Government and any State Government, if both the Governments are members of the Government company.

(6) The Company Liquidator shall cause the accounts when audited, or a summary thereof, to be printed, and shall send a printed copy of the accounts or summary thereof by post to every creditor and every contributory:

Provided that the Tribunal may dispense with the compliance of the provisions of this sub-section in any case it deems fit.

295. (1) The Tribunal may, at any time after passing of a winding up order, pass an order requiring any contributory for the time being on the list of contributories to pay, in the manner directed by the order, any money due to the company, from him or from the estate of the person whom he represents, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

Payment of debts by contributory and extent of set-off.

(2) The Tribunal, in making an order, under sub-section (1), may,—

(a) in the case of an unlimited company, allow to the contributory, by way of set-off, any money due to him or to the estate which he represents, from the company, on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(b) in the case of a limited company, allow to any director or manager whose liability is unlimited, or to his estate, such set-off.

(3) In the case of any company, whether limited or unlimited; when all the creditors have been paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

296. The Tribunal may, at any time after the passing of a winding up order, and either before or after it has ascertained the sufficiency of the assets of the company,—

Power of Tribunal to make calls.

(a) make calls on all or any of the contributories for the time being on the list of the contributories, to the extent of their liability, for payment of any money which the Tribunal considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves; and

(b) make an order for payment of any calls so made.

297. The Tribunal shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled thereto.

Adjustment of rights of contributories.

298. The Tribunal may, in the event of the assets of a company being insufficient to satisfy its liabilities, make an order for the payment out of the assets, of the costs, charges

Power to order costs.

and expenses incurred in the winding up, in such order of priority *inter se* as the Tribunal thinks just and proper.

Power to
summon
persons
suspected of
having
property of
company,
etc.

299. (1) The Tribunal may, at any time after the appointment of a provisional liquidator or the passing of a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property or books or papers, of the company, or known or suspected to be indebted to the company, or any person whom the Tribunal thinks to be capable of giving information concerning the promotion, formation, trade, dealings, property, books or papers, or affairs of the company.

(2) The Tribunal may examine any officer or person so summoned on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories or on affidavit and may, in the first case, reduce his answers to writing and require him to sign them.

(3) The Tribunal may require any officer or person so summoned to produce any books and papers relating to the company in his custody or power, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to such lien, and the Tribunal shall have power to determine all questions relating to that lien.

(4) The Tribunal may direct the liquidator to file before it a report in respect of debt or property of the company in possession of other persons.

(5) If the Tribunal finds that—

(a) a person is indebted to the company, the Tribunal may order him to pay to the provisional liquidator or, as the case may be, the liquidator at such time and in such manner as the Tribunal may consider just, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Tribunal thinks fit, with or without costs of the examination;

(b) a person is in possession of any property belonging to the company, the Tribunal may order him to deliver to the provisional liquidator or, as the case may be, the liquidator, that property or any part thereof, at such time, in such manner and on such terms as the Tribunal may consider just.

(6) If any officer or person so summoned fails to appear before the Tribunal at the time appointed without a reasonable cause, the Tribunal may impose an appropriate cost.

(7) Every order made under sub-section (5) shall be executed in the same manner as decrees for the payment of money or for the delivery of property under the Code of Civil Procedure, 1908.

5 of 1908.

(8) Any person making any payment or delivery in pursuance of an order made under sub-section (5) shall by such payment or delivery be, unless otherwise directed by such order, discharged from all liability whatsoever in respect of such debt or property.

Power to
order
examination
of promoters,
directors, etc.

300. (1) Where an order has been made for the winding up of a company by the Tribunal, and the Company Liquidator has made a report to the Tribunal under this Act, stating that in his opinion a fraud has been committed by any person in the promotion, formation, business or conduct of affairs of the company since its formation, the Tribunal may, after considering the report, direct that such person or officer shall attend before the Tribunal on a day appointed by it for that purpose, and be examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as an officer thereof.

(2) The Company Liquidator shall take part in the examination, and for that purpose he or it may, if specially authorised by the Tribunal in that behalf, employ such legal assistance as may be sanctioned by the Tribunal.

(3) The person shall be examined on oath and shall answer all such questions as the Tribunal may put, or allow to be put, to him.

(4) A person ordered to be examined under this section—

(a) shall, before his examination, be furnished at his own cost with a copy of the report of the Company Liquidator; and

(b) may at his own cost employ chartered accountants or company secretaries or cost accountants or legal practitioners entitled to appear before the Tribunal under section 432, who shall be at liberty to put to him such questions as the Tribunal may consider just for the purpose of enabling him to explain or qualify any answers given by him.

(5) If any such person applies to the Tribunal to be exculpated from any charges made or suggested against him, it shall be the duty of the Company Liquidator to appear on the hearing of such application and call the attention of the Tribunal to any matters which appear to the Company Liquidator to be relevant.

(6) If the Tribunal, after considering any evidence given or hearing witnesses called by the Company Liquidator, allows the application made under sub-section (5), the Tribunal may order payment to the applicant of such costs as it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, a copy be supplied to him and may thereafter be used in evidence against him, and shall be open to inspection by any creditor or contributory at all reasonable times.

(8) The Tribunal may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Tribunal so directs, be held before any person or authority authorised by the Tribunal.

(10) The powers of the Tribunal under this section as to the conduct of the examination, but not as to costs, may be exercised by the person or authority before whom the examination is held in pursuance of sub-section (9).

301. At any time either before or after passing a winding up order, if the Tribunal is satisfied that a contributory or a person having property, accounts or papers of the company in his possession is about to leave India or otherwise to abscond, or is about to remove or conceal any of his property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, the Tribunal may cause—

Arrest of person trying to leave India or abscond.

(a) the contributory to be detained until such time as the Tribunal may order; and

(b) his books and papers and movable property to be seized and safely kept until such time as the Tribunal may order.

302. (1) When the affairs of a company have been completely wound up, the Company Liquidator shall make an application to the Tribunal for dissolution of such company.

Dissolution of company by Tribunal.

(2) The Tribunal shall on an application filed by the Company Liquidator under sub-section (1) or when the Tribunal is of the opinion that it is just and reasonable in the circumstances of the case that an order for the dissolution of the company should be made, make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(3) A copy of the order shall, within thirty days from the date thereof, be forwarded by the Company Liquidator to the Registrar who shall record in the register relating to the company a minute of the dissolution of the company.

(4) If the Company Liquidator makes a default in forwarding a copy of the order within the period specified in sub-section (3), the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the default continues.

Appeals from
orders made
before
commencement
of Act.

303. Nothing in this Chapter shall affect the operation or enforcement of any order made by any Court in any proceedings for the winding up of a company immediately before the commencement of this Act and an appeal against such order shall be filed before such authority competent to hear such appeals before such commencement.

PART II.—*Voluntary winding up*

Circumstances
in which
company may
be wound up
voluntarily.

304. A company may be wound up voluntarily,—

(a) if the company in general meeting passes a resolution requiring the company to be wound up voluntarily as a result of the expiry of the period for its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company should be dissolved; or

(b) if the company passes a special resolution that the company be wound up voluntarily.

Declaration
of solvency in
case of
proposal to
wind up
voluntarily.

305. (1) Where it is proposed to wind up a company voluntarily, its director or directors, or in case the company has more than two directors, the majority of its directors, shall, at a meeting of the Board, make a declaration verified by an affidavit to the effect that they have made a full inquiry into the affairs of the company and they have formed an opinion that the company has no debt or whether it will be able to pay its debts in full from the proceeds of assets sold in voluntary winding up.

(2) A declaration made under sub-section (1) shall have no effect for the purposes of this Act, unless—

(a) it is made within five weeks immediately preceding the date of the passing of the resolution for winding up the company and it is delivered to the Registrar for registration before that date;

(b) it contains a declaration that the company is not being wound up to defraud any person or persons;

(c) it is accompanied by a copy of the report of the auditors of the company prepared in accordance with the provisions of this Act, on the profit and loss account of the company for the period commencing from the date up to which the last such account was prepared and ending with the latest practicable date immediately before the making of the declaration and the balance sheet of the company made out as on that date which would also contain a statement of the assets and liabilities of the company on that date; and

(d) where there are any assets of the company, it is accompanied by a report of the valuation of the assets of the company prepared by a registered valuer.

(3) Where the company is wound up in pursuance of a resolution passed within a period of five weeks after the making of the declaration, but its debts are not paid or provided for in full, it shall be presumed, until the contrary is shown, that the director or directors did not have reasonable grounds for his or their opinion under sub-section (1).

(4) Any director of a company making a declaration under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full from the proceeds of assets sold in voluntary winding up shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees, or with both.

Meeting of
creditors.

306. (1) The company shall along with the calling of meeting of the company at which the resolution for the voluntary winding up is to be proposed, cause a meeting of its creditors either on the same day or on the next day and shall cause a notice of such meeting to be sent

by registered post to the creditors with the notice of the meeting of the company under section 304.

(2) The Board of Directors of the company shall—

(a) cause to be presented a full statement of the position of the affairs of the company together with a list of creditors of the company, if any, copy of declaration under section 305 and the estimated amount of the claims before such meeting; and

(b) appoint one of the directors to preside at the meeting.

(3) Where two-thirds in value of creditors of the company are of the opinion that—

(a) it is in the interest of all parties that the company be wound up voluntarily, the company shall be wound up voluntarily; or

(b) the company may not be able to pay for its debts in full from the proceeds of assets sold in voluntary winding up and pass a resolution that it shall be in the interest of all parties if the company is wound up by the Tribunal in accordance with the provisions of Part I of this Chapter, the company shall within fourteen days thereafter file an application before the Tribunal.

(4) The notice of any resolution passed at a meeting of creditors in pursuance of this section shall be given by the company to the Registrar within ten days of the passing thereof.

(5) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees and the director of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees, or with both.

307. (1) Where a company has passed a resolution for voluntary winding up and a resolution under sub-section (3) of section 306 is passed, it shall within fourteen days of the passing of the resolution give notice of the resolution by advertisement in the Official Gazette and also in a newspaper which is in circulation in the district where the registered office or the principal office of the company is situate,

Publication of resolution to wind up voluntarily.

(2) If a company contravenes the provisions of sub-section (1), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees for every day during which such default continues.

308. A voluntary winding up shall be deemed to commence on the date of passing of the resolution for voluntary winding up under section 304.

Commencement of voluntary winding up.

309. In the case of a voluntary winding up, the company shall from the commencement of the winding up cease to carry on its business except as far as required for the beneficial winding up of its business:

Effect of voluntary winding up.

Provided that the corporate state and corporate powers of the company shall continue until it is dissolved.

310. (1) The company in its general meeting, where a resolution of voluntary winding up is passed, shall appoint a Company Liquidator from the panel prepared by the Central Government for the purpose of winding up its affairs and distributing the assets of the company and recommend the fee to be paid to the Company Liquidator.

Appointment of Company Liquidator.

(2) Where the creditors have passed a resolution for winding up the company under sub-section (3) of section 306, the appointment of the Company Liquidator under this section shall be effective only after it is approved by the majority of creditors in value of the company:

Provided that where such creditors do not approve the appointment of such Company Liquidator, creditors shall appoint another Company Liquidator.

(3) The creditors while approving the appointment of Company Liquidator appointed by the company or appointing the Company Liquidator of their own choice, as the case may be, pass suitable resolution with regard to the fee of the Company Liquidator.

(4) On appointment as Company Liquidator, such liquidator shall file a declaration in the prescribed form within seven days of the date of appointment disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the company and the creditors and such obligation shall continue throughout the term of his or its appointment.

Power to remove and fill vacancy of Company Liquidator.

311. (1) A Company Liquidator appointed under section 310 may be removed by the company where his appointment has been made by the company and, by the creditors, where the appointment is approved or made by such creditors.

(2) Where a Company Liquidator is sought to be removed under this section, he shall be given a notice in writing stating the grounds of removal from his office by the company or the creditors, as the case may be.

(3) Where three-fourth members of the company or three-fourth of creditors in value, as the case may be, after consideration of the reply, if any, filed by the Company Liquidator, in their meeting decide to remove the Company Liquidator, he shall vacate his office.

(4) If a vacancy occurs by death, resignation, removal or otherwise in the office of any Company Liquidator appointed under section 310, the company or the creditors, as the case may be, fill the vacancy in the manner specified in that section.

Notice of appointment of Company Liquidator to be given to Registrar.

312. (1) The company shall give notice to the Registrar of the appointment of a Company Liquidator along with the name and particulars of the Company Liquidator, of every vacancy occurring in the office of Company Liquidator, and of the name of the Company Liquidator appointed to fill every such vacancy within ten days of such appointment or the occurrence of such vacancy.

(2) If a company contravenes the provisions of sub-section (1), the company and every officer of the company who is in default shall be punishable with fine which may extend to five hundred rupees for every day during which such default continues.

Cesser of Board's powers on appointment of Company Liquidator.

313. On the appointment of a Company Liquidator, all the powers of the Board of Directors and of the managing or whole-time directors and manager, if any, shall cease, except for the purpose of giving notice of such appointment of the Company Liquidator to the Registrar.

Powers and duties of Company Liquidator in voluntary winding up.

314. (1) The Company Liquidator shall perform such functions and discharge such duties as may be determined from time to time by the company or the creditors, as the case may be.

(2) The Company Liquidator shall settle the list of contributories, which shall be *prima facie* evidence of the liability of the persons named therein to be contributories.

(3) The Company Liquidator shall call general meetings of the company for the purpose of obtaining the sanction of the company by ordinary or special resolution, as the case may require, or for any other purpose he may consider necessary.

(4) The Company Liquidator shall maintain regular and proper books of account in such form and in such manner as may be prescribed and the members and creditors and any officer authorised by the Central Government may inspect such books of account.

(5) The Company Liquidator shall prepare quarterly statement of accounts in such form and manner as may be prescribed and file such statement of accounts duly audited within thirty days from the close of each quarter with the Registrar, failing which the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

(6) The Company Liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(7) The Company Liquidator shall observe due care and diligence in the discharge of his duties.

(8) If the Company Liquidator fails to comply with the provisions of this section except sub-section (5) he shall be punishable with fine which may extend to ten lakh rupees.

315. Where there are no creditors of a company, such company in its general meeting and, where a meeting of creditors is held under section 306, such creditors, as the case may be, may appoint such committees as considered appropriate to supervise the voluntary liquidation and assist the Company Liquidator in discharging his or its functions.

Appointment of committees.

316. (1) The Company Liquidator shall report quarterly on the progress of winding up of the company in such form and in such manner as may be prescribed to the members and creditors and shall also call a meeting of the members and the creditors as and when necessary but at least one meeting each of creditors and members in every quarter and apprise them of the progress of the winding up of the company in such form and in such manner as may be prescribed.

Company Liquidator to submit report on progress of winding up.

(2) If the Company Liquidator fails to comply with the provisions of sub-section (1), he shall be punishable, in respect of each such failure, with fine which may extend to ten lakh rupees.

317. (1) Where the Company Liquidator is of the opinion that a fraud has been committed by any person in respect of the company, he shall immediately make a report to the Tribunal and the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 210 and on consideration of the report of such investigation, the Tribunal may pass such order and give such directions under this Chapter as it may consider necessary including the direction that such person shall attend before the Tribunal on a day appointed by it for that purpose and be examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as officer thereof or otherwise.

Report of Company Liquidator to Tribunal for examination of persons.

(2) The provisions of section 300 shall *mutatis mutandis* apply in relation to any examination directed under sub-section (1).

318. (1) As soon as the affairs of a company are fully wound up, the Company Liquidator shall prepare a report of the winding up showing that the property and assets of the company have been disposed of and its debt fully discharged or discharged to the satisfaction of the creditors and thereafter call a general meeting of the company for the purpose of laying the final winding up accounts before it and giving any explanation therefor.

Final meeting and dissolution of company.

(2) The meeting referred to in sub-section (1) shall be called by the Company Liquidator in such form and manner as may be prescribed.

(3) If the majority of the members of the company after considering the report of the Company Liquidator are satisfied that the company shall be wound up, they may pass a resolution for its dissolution.

(4) Within two weeks after the meeting, the Company Liquidator shall—

(a) send to the Registrar—

(i) a copy of the final winding up accounts of the company and shall make a return in respect of each meeting and of the date thereof; and

(ii) copies of the resolutions passed in the meetings; and

(b) file an application along with his report under sub-section (1) in such manner as may be prescribed along with the books and papers of the company relating to the winding up, before the Tribunal for passing an order of dissolution of the company.

(5) If the Tribunal is satisfied, after considering the report of the Company Liquidator that the process of winding up has been just and fair, the Tribunal shall pass an order dissolving the company within sixty days of the receipt of the application under sub-section (4).

(6) The Company Liquidator shall file a copy of the order under sub-section (5) with the Registrar within thirty days.

(7) The Registrar, on receiving the copy of the order passed by the Tribunal under sub-section (5), shall forthwith publish a notice in the Official Gazette that the company is dissolved.

(8) If the Company Liquidator fails to comply with the provisions of this section, he shall be punishable with fine which may extend to one lakh rupees.

Power of
Company
Liquidator to
accept shares,
etc., as
consideration
for sale of
property of
company.

319. (1) Where a company (the transferor company) is proposed to be, or is in the course of being, wound up voluntarily and the whole or any part of its business or property is proposed to be transferred or sold to another company (the transferee company), the Company Liquidator of the transferor company may, with the sanction of a special resolution of the company conferring on him either a general authority or an authority in respect of any particular arrangement,—

(a) receive, by way of compensation wholly or in part for the transfer or sale of shares, policies, or other like interest in the transferee company, for distribution among the members of the transferor company; or

(b) enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interest or in addition thereto, participate in the profits of, or receive any other benefit from, the transferee company:

Provided that no such arrangement shall be entered into without the consent of the secured creditors.

(2) Any transfer, sale or other arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) Any member of the transferor company who did not vote in favour of the special resolution and expresses his dissent therefrom in writing addressed to the Company Liquidator, and left at the registered office of the company within seven days after the passing of the resolution, may require the liquidator either—

(a) to abstain from carrying the resolution into effect; or

(b) to purchase his interest at a price to be determined by agreement or the registered valuer.

(4) If the Company Liquidator elects to purchase the member's interest, the purchase money, raised by him in such manner as may be determined by a special resolution, shall be paid before the company is dissolved.

Distribution
of property
of company.

320. Subject to the provisions of this Act as to overriding preferential payments under section 326, the assets of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu* and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Arrangement
when binding
on company
and creditors.

321. (1) Any arrangement other than the arrangement referred to in section 319 entered into between the company which is about to be, or is in the course of being wound up and its creditors shall be binding on the company and on the creditors if it is sanctioned by a special resolution of the company and acceded to by the creditors who hold three-fourths in value of the total amount due to all the creditors of the company.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, apply to the Tribunal and the Tribunal may thereupon amend, vary, confirm or set aside the arrangement.

322. (1) The Company Liquidator or any contributory or creditor may apply to the Tribunal—

Power to apply to Tribunal to have questions determined, etc.

(a) to determine any question arising in the course of the winding up of a company; or

(b) to exercise as respects the enforcing of calls, the staying of proceedings or any other matter, all or any of the powers which the Tribunal might exercise if the company were being wound up by the Tribunal.

(2) The Company Liquidator or any creditor or contributory may apply to the Tribunal for an order setting aside any attachment, distress or execution put into force against the estate or effects of the company after the commencement of the winding up.

(3) The Tribunal, if satisfied on an application under sub-section (1) or sub-section (2) that the determination of the question or the required exercise of power or the order applied for will be just and fair, may allow the application on such terms and conditions as it thinks fit or may make such other order on the application as it thinks fit.

(4) A copy of an order staying the proceedings in the winding up, made under this section, shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the Registrar, who shall make a minute of the order in his books relating to the company.

323. All costs, charges and expenses properly incurred in the winding up, including the fee of the Company Liquidator, shall, subject to the rights of secured creditors, if any, be payable out of the assets of the company in priority to all other claims.

Costs of voluntary winding up.

PART III.—Provisions applicable to every mode of winding up

324. In every winding up (subject, in the case of insolvent companies, to the application in accordance with the provisions of this Act or of the law of insolvency), all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency, or may sound only in damages, or for some other reason may not bear a certain value.

Debts of all descriptions to be admitted to proof.

325. (1) In the winding up of an insolvent company, the same rules shall prevail and be observed with regard to—

Application of insolvency rules in winding up of insolvent companies.

(a) debts provable;

(b) the valuation of annuities and future and contingent liabilities; and

(c) the respective rights of secured and unsecured creditors,

as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent:

Provided that the security of every secured creditor shall be deemed to be subject to a *pari passu* charge in favour of the workmen to the extent of the workmen's portion therein, and, where a secured creditor, instead of relinquishing his security and proving his debts, opts to realise his security,—

(i) the liquidator shall be entitled to represent the workmen and enforce such charge;

(ii) any amount realised by the liquidator by way of enforcement of such charge shall be applied rateably for the discharge of workmen's dues; and

(iii) so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen's portion in his security, whichever is less, shall rank *pari passu* with the workmen's dues for the purposes of section 326.

(2) All persons under sub-section (1) shall be entitled to prove and receive dividends out of the assets of the company under winding up, and make such claims against the company as they respectively are entitled to make by virtue of this section:

Provided that if a secured creditor, instead of relinquishing his security and proving his debts, proceeds to realise his security, he shall be liable to pay his portion of the expenses incurred by the liquidator, including a provisional liquidator, if any, for the preservation of the security before its realisation by the secured creditor.

Explanation.—For the purposes of this sub-section, the portion of expenses incurred by the liquidator for the preservation of a security which the secured creditor shall be liable to pay shall be the whole of the expenses less an amount which bears to such expenses the same proportion as the workmen's portion in relation to the security bears to the value of the security.

(3) For the purposes of this section, section 326 and section 327,—

(a) "workmen", in relation to a company, means the employees of the company, being workmen within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947;

14 of 1947.

(b) "workmen's dues", in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

(i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947;

14 of 1947.

(ii) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

(iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923, rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;

8 of 1923.

(iv) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company;

(c) "workmen's portion", in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.

Illustration

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen's dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is, therefore, one-fourth of the value of the security, that is Rs. 25,000.

Overriding preferential payments.

326. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, in the winding up of a company,—

(a) workmen's dues; and

(b) debts due to secured creditors to the extent such debts rank under clause

(iii) of the proviso to sub-section (1) of section 325 *pari passu* with such dues,

shall be paid in priority to all other debts:

Provided that in case of the winding up of a company, the sums towards wages or salary referred to in sub-clause (i) of clause (b) of sub-section (3) of section 325, which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(2) The debts payable under the proviso to sub-section (1) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

327. (1) In a winding up, subject to the provisions of section 326, there shall be paid in priority to all other debts,—

Preferential payments.

(a) all revenues, taxes, cesses and rates due from the company to the Central Government or a State Government or to a local authority at the relevant date, and having become due and payable within the twelve months immediately before that date;

(b) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any employee in respect of services rendered to the company and due for a period not exceeding four months within the twelve months immediately before the relevant date, subject to the condition that the amount payable under this clause to any workman shall not exceed such amount as may be notified;

(c) all accrued holiday remuneration becoming payable to any employee, or in the case of his death, to any other person claiming under him, on the termination of his employment before, or by the winding up order, or, as the case may be, the dissolution of the company;

(d) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company, all amount due in respect of contributions payable during the period of twelve months immediately before the relevant date by the company as the employer of persons under the Employees' State Insurance Act, 1948 or any other law for the time being in force;

34 of 1948.

(e) unless the company has, at the commencement of winding up, under such a contract with any insurer as is mentioned in section 14 of the Workmen's Compensation Act, 1923, rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any employee of the company:

8 of 1923.

Provided that where any compensation under the said Act is a weekly payment, the amount payable under this clause shall be taken to be the amount of the lump sum for which such weekly payment could, if redeemable, be redeemed, if the employer has made an application under that Act;

(f) all sums due to any employee from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the employees, maintained by the company; and

(g) the expenses of any investigation held in pursuance of sections 213 and 216, in so far as they are payable by the company.

(2) Where any payment has been made to any employee of a company on account of wages or salary or accrued holiday remuneration, himself or, in the case of his death, to any other person claiming through him, out of money advanced by some person for that purpose, the person by whom the money was advanced shall, in a winding up, have a right of priority in respect of the money so advanced and paid-up to the amount by which the sum in respect of which the employee or other person in his right would have been entitled to priority in the winding up has been reduced by reason of the payment having been made.

(3) The debts enumerated in this section shall—

(a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment to general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(4) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the debts under this section shall be discharged forthwith so far as the assets are sufficient to meet them, and in the case of the debts to which priority is given under clause (d) of sub-section (1), formal proof thereof shall not be required except in so far as may be otherwise prescribed.

(5) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months immediately before the date of a winding up order, the debts to which priority is given under this section shall be a first charge on the goods or effects so distrained on or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(6) Any remuneration in respect of a period of holiday or of absence from work on medical grounds through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

Explanation.—For the purposes of this section,—

(a) the expression “accrued holiday remuneration” includes, in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment including any order made or direction given thereunder, are payable on account of the remuneration which would, in the ordinary course, have become payable to him in respect of a period of holiday, had his employment with the company continued until he became entitled to be allowed the holiday;

(b) the expression “employee” does not include a workman; and

(c) the expression “relevant date” means—

(i) in the case of a company being wound up by the Tribunal, the date of appointment or first appointment of a provisional liquidator, or if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date; and

(ii) in any other case, the date of the passing of the resolution for the voluntary winding up of the company.

Fraudulent preference.

328. (1) Where a company has given preference to a person who is one of the creditors of the company or a surety or guarantor for any of the debts or other liabilities of the company, and the company does anything or suffers anything done which has the effect of putting that person into a position which, in the event of the company going into liquidation, will be better than the position he would have been in if that thing had not been done prior to six months of making winding up application, the Tribunal, if satisfied that, such transaction is a fraudulent preference may order as it may think fit for restoring the position to what it would have been if the company had not given that preference.

(2) If the Tribunal is satisfied that there is a preference transfer of property, movable or immovable, or any delivery of goods, payment, execution made, taken or done by or against a company within six months before making winding up application, the Tribunal may order as it may think fit and may declare such transaction invalid and restore the position.

Transfers not in good faith to be void.

329. Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrance in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the

Tribunal or the passing of a resolution for voluntary winding up of the company, shall be void against the Company Liquidator.

330. Any transfer or assignment by a company of all its properties or assets to trustees for the benefit of all its creditors shall be void.

Certain transfers to be void.

331. (1) Where a company is being wound up and anything made, taken or done after the commencement of this Act is invalid under section 328 as a fraudulent preference of a person interested in property mortgaged or charged to secure the company's debt, then, without prejudice to any rights or liabilities arising, apart from this provision, the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as a surety for the debt, to the extent of the mortgage or charge on the property or the value of his interest, whichever is less.

Liabilities and rights of certain persons fraudulently preferred.

(2) The value of the interest of the person preferred under sub-section (1) shall be determined as at the date of the transaction constituting the fraudulent preference, as if the interest were free of all encumbrances other than those to which the mortgage or charge for the debt of the company was then subject.

(3) On an application made to the Tribunal with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the Tribunal shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do for the purposes of the winding up, and for that purpose, may give leave to bring in the surety or guarantor as a third party as in the case of a suit for the recovery of the sum paid.

(4) The provisions of sub-section (3) shall apply *mutatis mutandis* in relation to transactions other than payment of money.

332. Where a company is being wound up, a floating charge on the undertaking or property of the company created within the twelve months immediately preceding the commencement of the winding up, shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except for the amount of any cash paid to the company at the time of, or subsequent to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum or such other rate as may be notified by the Central Government in this behalf.

Effect of floating charge.

333. (1) Where any part of the property of a company which is being wound up consists of—

Disclaimer of onerous property.

(a) land of any tenure, burdened with onerous covenants;

(b) shares or stocks in companies;

(c) any other property which is not saleable or is not readily saleable by reason of the possessor thereof being bound either to the performance of any onerous act or to the payment of any sum of money; or

(d) unprofitable contracts,

the Company Liquidator may, notwithstanding that he has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto or done anything in pursuance of the contract, with the leave of the Tribunal and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the Tribunal, disclaim the property:

Provided that where the Company Liquidator had not become aware of the existence of any such property within one month from the commencement of the winding up, the power

of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Tribunal.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the company in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights, interest or liabilities of any other person.

(3) The Tribunal, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Tribunal considers just and proper.

(4) The Company Liquidator shall not be entitled to disclaim any property in any case where an application in writing has been made to him by any person interested in the property requiring him to decide whether he will or will not disclaim and the Company Liquidator has not, within a period of twenty-eight days after the receipt of the application or such extended period as may be allowed by the Tribunal, give notice to the applicant that he intends to apply to the Tribunal for leave to disclaim, and in case the property is under a contract, if the Company Liquidator after such an application as aforesaid does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The Tribunal may, on the application of any person who is, as against the Company Liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Tribunal considers just and proper, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The Tribunal may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged under this Act in respect of any disclaimed property, and after hearing any such persons as it thinks fit, make an order for the vesting of the property in, or the delivery of the property to, any person entitled thereto or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Tribunal considers just and proper, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person named therein in that behalf without any conveyance or assignment for the purpose:

Provided that where the property disclaimed is of a leasehold nature, the Tribunal shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee or holder of a charge by way of demise, except upon the terms of making that person—

(a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

(b) if the Tribunal thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in, and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the Tribunal shall have power to vest the estate and interest of the company in the property in any person liable, either personally or in a representative character, and either alone or jointly with the company, to perform the covenants of the lessee in the lease, free and discharged from all estates, encumbrances and interests created therein by the company.

(7) Any person affected by the operation of a disclaimer under this section shall be

deemed to be a creditor of the company to the amount of the compensation or damages payable in respect of such effect, and may accordingly prove the amount as a debt in the winding up.

334. (1) In the case of a voluntary winding up, any transfer of shares in the company, not being a transfer made to or with the sanction of the Company Liquidator, and any alteration in the status of the members of the company, made after the commencement of the winding up, shall be void.

Transfers, etc., after commencement of winding up to be void.

(2) In the case of a winding up by the Tribunal, any disposition of the property, including actionable claims, of the company, and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up, shall, unless the Tribunal otherwise orders, be void.

335. (1) Where any company is being wound up by the Tribunal,—

(a) any attachment, distress or execution put in force, without leave of the Tribunal against the estate or effects of the company, after the commencement of the winding up; or

(b) any sale held, without leave of the Tribunal of any of the properties or effects of the company, after such commencement,

shall be void.

Certain attachments, executions, etc., in winding up by Tribunal to be void.

(2) Nothing in this section shall apply to any proceedings for the recovery of any tax or impost or any dues payable to the Government.

336. (1) If any person, who is or has been an officer of a company which, at the time of the commission of the alleged offence, is being wound up, whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up,—

Offences by officers of companies in liquidation.

(a) does not, to the best of his knowledge and belief, fully and truly disclose to the Company Liquidator all the property, movable and immovable, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary course of the business of the company;

(b) does not deliver up to the Company Liquidator, or as he directs, all such part of the movable and immovable property of the company as is in his custody or under his control and which he is required by law to deliver up;

(c) does not deliver up to the Company Liquidator, or as he directs, all such books and papers of the company as are in his custody or under his control and which he is required by law to deliver up;

(d) within the twelve months immediately before the commencement of the winding up or at any time thereafter,—

(i) conceals any part of the property of the company to the value of one thousand rupees or more, or conceals any debt due to or from the company;

(ii) fraudulently removes any part of the property of the company to the value of one thousand rupees or more;

(iii) conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to, the property or affairs of the company;

(iv) makes, or is privy to the making of, any false entry in any book or paper affecting or relating to, the property or affairs of the company;

(v) fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making of any omission in, any book or paper affecting or relating to the property or affairs of the company;

(vi) by any false representation or other fraud; obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for;

(vii) under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

(viii) pawns, pledges or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing of the property is in the ordinary course of business of the company;

(e) makes any material omission in any statement relating to the affairs of the company;

(f) knowing or believing that a false debt has been proved by any person under the winding up, fails for a period of one month to inform the Company Liquidator thereof;

(g) after the commencement of the winding up, prevents the production of any book or paper affecting or relating to the property or affairs of the company;

(h) after the commencement of the winding up or at any meeting of the creditors of the company within the twelve months next before the commencement of the winding up, attempts to account for any part of the property of the company by fictitious losses or expenses; or

(i) is guilty of any false representation or fraud for the purpose of obtaining the consent of the creditors of the company or any of them, to an agreement with reference to the affairs of the company or to the winding up,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:

Provided that it shall be a good defence if the accused proves that he had no intent to defraud or to conceal the true state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under sub-clause (viii) of clause (d) of sub-section (1), every person who takes in pawn or pledge or otherwise receives the property, knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than three lakh rupees but which may extend to five lakh rupees.

Explanation.—For the purposes of this section, the expression “officer” includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

Penalty for
frauds by
officers.

337. If any person, being at the time of the commission of the alleged offence an officer of a company which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up,—

(a) has, by false pretences or by means of any other fraud, induced any person to give credit to the company;

(b) with intent to defraud creditors of the company or any other person, has

made or caused to be made any gift or transfer of, or charge on, or has caused or connived at the levying of any execution against, the property of the company; or

(c) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since the date of any unsatisfied judgment or order for payment of money obtained against the company or within two months before that date,

he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

338. (1) Where a company is being wound up, if it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding up, or the period between the incorporation of the company and the commencement of the winding up, whichever is shorter, every officer of the company who is in default shall, unless he shows that he acted honestly and that in the circumstances in which the business of the company was carried on, the default was excusable, be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

Liability where proper accounts not kept.

(2) For the purposes of sub-section (1), it shall be deemed that proper books of account have not been kept in the case of any company,—

(a) if such books of account as are necessary to exhibit and explain the transactions and financial position of the business of the company, including books containing entries made from day-to-day in sufficient detail of all cash received and all cash paid, have not been kept; and

(b) where the business of the company has involved dealings in goods, statements of the annual stock takings and, except in the case of goods sold by way of ordinary retail trade, of all goods sold and purchased, showing the goods and the buyers and the sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified, have not been kept.

339. (1) If in the course of the winding up of a company, it appears that any business of the company has been carried on with intent to defraud creditors of the company or any other persons or for any fraudulent purpose, the Tribunal, on the application of the Official Liquidator, or the Company Liquidator or any creditor or contributory of the company, may, if it thinks it proper so to do, declare that any person, who is or has been a director, manager, or officer of the company or any persons who were knowingly parties to the carrying on of the business in the manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the Tribunal may direct:

Liability for fraudulent conduct of business.

Provided that on the hearing of an application under this sub-section, the Official Liquidator or the Company Liquidator, as the case may be, may himself give evidence or call witnesses.

(2) Where the Tribunal makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration and, in particular,—

(a) make provision for making the liability of any such person under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf;

(b) make such further order as may be necessary for the purpose of enforcing any charge imposed under this sub-section.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid, shall be liable for action under section 447.

(4) This section shall apply, notwithstanding that the person concerned may be punishable under any other law for the time being in force in respect of the matters on the ground of which the declaration is to be made.

Explanation.—For the purposes of this section,—

(a) the expression “assignee” includes any person to whom or in whose favour, by the directions of the person liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest was created, but does not include an assignee for valuable consideration, not including consideration by way of marriage, given in good faith and without notice of any of the matters on the ground of which the declaration is made;

(b) the expression “officer” includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

Power of
Tribunal to
assess
damages
against
delinquent
directors, etc.

340. (1) If in the course of winding up of a company, it appears that any person who has taken part in the promotion or formation of the company, or any person, who is or has been a director, manager, Company Liquidator or officer of the company—

(a) has misapplied, or retained, or become liable or accountable for, any money or property of the company; or

(b) has been guilty of any misfeasance or breach of trust in relation to the company,

the Tribunal may, on the application of the Official Liquidator, or the Company Liquidator, or of any creditor or contributory, made within the period specified in that behalf in sub-section (2), inquire into the conduct of the person, director, manager, Company Liquidator or officer aforesaid, and order him to repay or restore the money or property or any part thereof respectively, with interest at such rate as the Tribunal considers just and proper, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust, as the Tribunal considers just and proper.

(2) An application under sub-section (1) shall be made within five years from the date of the winding up order, or of the first appointment of the Company Liquidator in the winding up, or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer.

(3) This section shall apply, notwithstanding that the matter is one for which the person concerned may be criminally liable.

Liability
under sections
339 and 340
to extend to
partners or
directors in
firms or
companies.

341. Where a declaration under section 339 or an order under section 340 is made in respect of a firm or body corporate, the Tribunal shall also have power to make a declaration under section 339, or pass an order under section 340, as the case may be, in respect of any person who was at the relevant time a partner in that firm or a director of that body corporate.

Prosecution
of delinquent
officers and
members of
company.

342. (1) If it appears to the Tribunal in the course of a winding up by the Tribunal, that any person, who is or has been an officer, or any member, of the company has been guilty of any offence in relation to the company, the Tribunal may, either on the application of any person interested in the winding up or *suo motu*, direct the liquidator to prosecute the offender or to refer the matter to the Registrar.

(2) If it appears to the Company Liquidator in the course of a voluntary winding up that any person, who is or has been an officer, or any member, of the company has been guilty of any offence in relation to the company under this Act, he shall forthwith report the matter to the Registrar and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any books and papers, being information or books and papers in the possession or under the control of the Company Liquidator and relating to the matter in question, as the Registrar may require.

(3) Where any report is made under sub-section (2) to the Registrar,—

(a) if he thinks fit, he may apply to the Central Government for an order to make further inquiry into the affairs of the company by any person designated by him and for conferring on such person all the powers of investigation as are provided under this Act;

(b) if he considers that the case is one in which a prosecution ought to be instituted, he shall report the matter to the Central Government, and that Government may, after taking such legal advice as it thinks fit, direct the Registrar to institute prosecution:

Provided that no report shall be made by the Registrar under this clause without first giving the accused person a reasonable opportunity of making a statement in writing to the Registrar and of being heard thereon.

(4) If it appears to the Tribunal in the course of a voluntary winding up that any person, who is or has been an officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the Company Liquidator to the Registrar under sub-section (2), the Tribunal may, on the application of any person interested in the winding up or *suo motu*, direct the Company Liquidator to make such a report, and on a report being made, the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of sub-section (2).

(5) When any prosecution is instituted under this section, it shall be the duty of the liquidator and of every person, who is or has been an officer and agent of the company to give all assistance in connection with the prosecution which he is reasonably able to give.

Explanation.—For the purposes of this sub-section, the expression “agent”, in relation to a company, shall include any banker or legal adviser of the company and any person employed by the company as auditor.

(6) If a person fails or neglects to give assistance required by sub-section (5), he shall be liable to pay fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

343. (1) The Company Liquidator may—

(a) with the sanction of the Tribunal, when the company is being wound up by the Tribunal; and

(b) with the sanction of a special resolution of the company and prior approval of the Tribunal, in the case of a voluntary winding up,—

(i) pay any class of creditors in full;

(ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or

(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged contributory or other debtor

Company Liquidator to exercise certain powers subject to sanction.

or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) Notwithstanding anything contained in sub-section (1), in the case of a winding up by the Tribunal, the Central Government may make rules to provide that the Company Liquidator may, under such circumstances, if any, and subject to such conditions, restrictions and limitations, if any, as may be prescribed, exercise any of the powers referred to in sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (1) without the sanction of the Tribunal.

(3) Any creditor or contributory may apply in the manner prescribed to the Tribunal with respect to any exercise or proposed exercise of powers by the Company Liquidator under this section, and the Tribunal shall after giving a reasonable opportunity to such applicant and the Company Liquidator, pass such orders as it may think fit.

Statement
that company
is in
liquidation.

344. (1) Where a company is being wound up, whether by the Tribunal or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a Company Liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(2) If a company contravenes the provisions of sub-section (1), the company, and every officer of the company, the Company Liquidator and any receiver or manager, who wilfully authorises or permits the non-compliance, shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees.

Books and
papers of
company to
be evidence.

345. Where a company is being wound up, all books and papers of the company and of the Company Liquidator shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be recorded therein.

Inspection of
books and
papers by
creditors and
contributories.

346. (1) At any time after the making of an order for the winding up of a company by the Tribunal, any creditor or contributory of the company may inspect the books and papers of the company only in accordance with, and subject to such rules as may be prescribed.

(2) Nothing contained in sub-section (1) shall exclude or restrict any rights conferred by any law for the time being in force—

(a) on the Central Government or a State Government;

(b) on any authority or officer thereof; or

(c) on any person acting under the authority of any such Government or of any such authority or officer.

Disposal of
books and
papers of
company.

347. (1) When the affairs of a company have been completely wound up and it is about to be dissolved, its books and papers and those of the Company Liquidator may be disposed of as follows:—

(a) in the case of winding up by the Tribunal, in such manner as the Tribunal directs; and

(b) in the case of voluntary winding up, in such manner as the company by special resolution with the prior approval of the creditors direct.

(2) After the expiry of five years from the dissolution of the company, no responsibility shall devolve on the company, the Company Liquidator, or any person to whom the custody of the books and papers has been entrusted, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) The Central Government may, by rules,—

(a) prevent for such period as it thinks proper the destruction of the books and

papers of a company which has been wound up and of its Company Liquidator; and

(b) enable any creditor or contributory of the company to make representations to the Central Government in respect of the matters specified in clause (a) and to appeal to the Tribunal from any order which may be made by the Central Government in the matter.

(4) If any person acts in contravention of any rule framed or an order made under sub-section (3), he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

348. (1) If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation,—

Information as to pending liquidations.

(a) in the case of a winding up by the Tribunal, with the Tribunal; and

(b) in the case of a voluntary winding up, with the Registrar:

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.

(2) When the statement is filed with the Tribunal under clause (a) of sub-section (1), a copy shall simultaneously be filed with the Registrar and shall be kept by him along with the other records of the company.

(3) Where a statement referred to in sub-section (1) relates to a Government company in liquidation, the Company Liquidator shall forward a copy thereof—

(a) to the Central Government, if that Government is a member of the Government company;

(b) to any State Government, if that Government is a member of the Government company; or

(c) to the Central Government and any State Government, if both the Governments are members of the Government company.

(4) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement referred to in sub-section (1), and to receive a copy thereof or an extract therefrom.

(5) Any person fraudulently stating himself to be a creditor or contributory under sub-section (4) shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code, and shall, on the application of the Company Liquidator, be punishable accordingly.

(6) If a Company Liquidator contravenes the provisions of this section, the Company Liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

(7) If a Company Liquidator makes wilful default in causing the statement referred to in sub-section (1) audited by a person who is not qualified to act as an auditor of the company, the Company Liquidator shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both.

Official Liquidator to make payments into public account of India.

349. Every Official Liquidator shall, in such manner and at such times as may be prescribed, pay the monies received by him as Official Liquidator of any company, into the public account of India in the Reserve Bank of India.

Company Liquidator to deposit monies into scheduled bank.

350. (1) Every Company Liquidator of a company shall, in such manner and at such times as may be prescribed, deposit the monies received by him in his capacity as such in a scheduled bank to the credit of a special bank account opened by him in that behalf:

Provided that if the Tribunal considers that it is advantageous for the creditors or contributories or the company, it may permit the account to be opened in such other bank specified by it.

(2) If any Company Liquidator at any time retains for more than ten days a sum exceeding five thousand rupees or such other amount as the Tribunal may, on the application of the Company Liquidator, authorise him to retain, then, unless he explains the retention to the satisfaction of the Tribunal, he shall—

(a) pay interest on the amount so retained in excess, at the rate of twelve per cent. per annum and also pay such penalty as may be determined by the Tribunal;

(b) be liable to pay any expenses occasioned by reason of his default; and

(c) also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, disallowed, or may also be removed from his office.

Liquidator not to deposit monies into private banking account.

351. Neither the Official Liquidator nor the Company Liquidator of a company shall deposit any monies received by him in his capacity as such into any private banking account.

Company Liquidation Dividend and Undistributed Assets Account.

352. (1) Where any company is being wound up and the liquidator has in his hands or under his control any money representing—

(a) dividends payable to any creditor but which had remained unpaid for six months after the date on which they were declared; or

(b) assets refundable to any contributory which have remained undistributed for six months after the date on which they become refundable,

the liquidator shall forthwith deposit the said money into a separate special account to be known as the Company Liquidation Dividend and Undistributed Assets Account maintained in a scheduled bank.

(2) The liquidator shall, on the dissolution of the company, pay into the Company Liquidation Dividend and Undistributed Assets Account any money representing unpaid dividends or undistributed assets in his hands at the date of dissolution.

(3) The liquidator shall, when making any payment referred to in sub-sections (1) and (2), furnish to the Registrar, a statement in the prescribed form, setting forth, in respect of all sums included in such payment, the nature of the sums, the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto, and such other particulars as may be prescribed.

(4) The liquidator shall be entitled to a receipt from the scheduled bank for any money paid to it under sub-sections (1) and (2), and such receipt shall be an effectual discharge of the Company Liquidator in respect thereof.

(5) Where a company is being wound up voluntarily, the Company Liquidator shall, when filing a statement in pursuance of sub-section (1) of section 348, indicate the sum of

money which is payable under sub-sections (1) and (2) of this section during the six months preceding the date on which the said statement is prepared, and shall, within fourteen days of the date of filing the said statement, pay that sum into the Company Liquidation Dividend and Undistributed Assets Account.

(6) Any person claiming to be entitled to any money paid into the Company Liquidation Dividend and Undistributed Assets Account, whether paid in pursuance of this section or under the provisions of any previous company law may apply to the Registrar for payment thereof, and the Registrar, if satisfied that the person claiming is entitled, may make the payment to that person of the sum due:

Provided that the Registrar shall settle the claim of such person within a period of sixty days from the date of receipt of such claim, failing which the Registrar shall make a report to the Regional Director giving reasons of such failure.

(7) Any money paid into the Company Liquidation Dividend and Undistributed Assets Account in pursuance of this section, which remains unclaimed thereafter for a period of fifteen years, shall be transferred to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred under sub-section (6) and shall be dealt with as if such transfer had not been made and the order, if any, for payment on the claim will be treated as an order for refund of revenue.

(8) Any liquidator retaining any money which should have been paid by him into the Company Liquidation Dividend and Undistributed Assets Account under this section shall—

(a) pay interest on the amount so retained at the rate of twelve per cent. per annum and also pay such penalty as may be determined by the Registrar:

Provided that the Central Government may in any proper case remit either in part or in whole the amount of interest which the liquidator is required to pay under this clause;

(b) be liable to pay any expenses occasioned by reason of his default; and

(c) where the winding up is by the Tribunal, also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, to be disallowed, and to be removed from his office by the Tribunal.

353. (1) If any Company Liquidator who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the Tribunal may, on an application made to it by any contributory or creditor of the company or by the Registrar, make an order directing the Company Liquidator to make good the default within such time as may be specified in the order.

Liquidator to make returns, etc.

(2) Any order under sub-section (1) may provide that all costs of, and incidental to, the application shall be borne by the Company Liquidator.

(3) Nothing in this section shall prejudice the operation of any enactment imposing penalties on a Company Liquidator in respect of any such default as aforesaid.

354. (1) In all matters relating to the winding up of a company, the Tribunal may—

(a) have regard to the wishes of creditors or contributories of the company, as proved to it by any sufficient evidence;

(b) if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Tribunal may direct; and

(c) appoint a person to act as chairman of any such meeting and to report the result thereof to the Tribunal.

Meetings to ascertain wishes of creditors or contributories.

(2) While ascertaining the wishes of creditors under sub-section (1), regard shall be had to the value of each debt of the creditor.

(3) While ascertaining the wishes of contributories under sub-section (1), regard shall be had to the number of votes which may be cast by each contributory.

Court,
tribunal or
person, etc.,
before whom
affidavit may
be sworn.

355. (1) Any affidavit required to be sworn under the provisions, or for the purposes, of this Chapter may be sworn—

(a) in India before any court, tribunal, judge or person lawfully authorised to take and receive affidavits; and

(b) in any other country before any court, judge or person lawfully authorised to take and receive affidavits in that country or before an Indian diplomatic or consular officer.

(2) All tribunals, judges, Justices, commissioners and persons acting judicially in India shall take judicial notice of the seal, stamp or signature, as the case may be, of any such court, tribunal, judge, person, diplomatic or consular officer, attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Chapter.

Powers of
Tribunal to
declare
dissolution of
company
void.

356. (1) Where a company has been dissolved, whether in pursuance of this Chapter or of section 232 or otherwise, the Tribunal may at any time within two years of the date of the dissolution, on application by the Company Liquidator of the company or by any other person who appears to the Tribunal to be interested, make an order, upon such terms as the Tribunal thinks fit, declaring the dissolution to be void, and thereupon such proceedings may be taken as if the company had not been dissolved.

(2) It shall be the duty of the Company Liquidator or the person on whose application the order was made, within thirty days after the making of the order or such further time as the Tribunal may allow, to file a certified copy of the order with the Registrar who shall register the same, and if the Company Liquidator or the person fails so to do, the Company Liquidator or the person shall be punishable with fine which may extend to ten thousand rupees for every day during which the default continues.

Commencement
of winding up
by Tribunal.

357. (1) Where, before the presentation of a petition for the winding up of a company by the Tribunal, a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the Tribunal, on proof of fraud or mistake, thinks fit to direct otherwise, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a company by the Tribunal shall be deemed to commence at the time of the presentation of the petition for the winding up.

Exclusion of
certain time in
computing
period of
limitation.

358. Notwithstanding anything in the Limitation Act, 1963, or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a company which is being wound up by the Tribunal, the period from the date of commencement of the winding up of the company to a period of one year immediately following the date of the winding up order shall be excluded.

36 of 1963

PART IV.—Official Liquidators

Appointment
of Official
Liquidator.

359. (1) For the purposes of this Act, so far as it relates to the winding up of companies by the Tribunal, the Central Government may appoint as many Official Liquidators, Joint, Deputy or Assistant Official Liquidators as it may consider necessary to discharge the functions of the Official Liquidator.

(2) The liquidators appointed under sub-section (1) shall be whole-time officers of the Central Government.

(3) The salary and other allowances of the Official Liquidator, Joint Official Liquidator,

Deputy Official Liquidator and Assistant Official Liquidator shall be paid by the Central Government.

360. (1) The Official Liquidator shall exercise such powers and perform such duties as the Central Government may prescribe.

Powers and functions of Official Liquidator.

(2) Without prejudice to the provisions of sub-section (1), the Official Liquidator may—

(a) exercise all or any of the powers as may be exercised by a Company Liquidator under the provisions of this Act; and

(b) conduct inquiries or investigations, if directed by the Tribunal or the Central Government, in respect of matters arising out of winding up proceedings.

361. (1) Where the company to be wound up under this Chapter, —

Summary procedure for liquidation.

(i) has assets of book value not exceeding one crore rupees; and

(ii) belongs to such class or classes of companies as may be prescribed,

the Central Government may order it to be wound up by summary procedure provided under this Part.

(2) Where an order under sub-section (1) is made, the Central Government shall appoint the Official Liquidator as the liquidator of the company.

(3) The Official Liquidator shall forthwith take into his custody or control all assets, effects and actionable claims to which the company is or appears to be entitled.

(4) The Official Liquidator shall, within thirty days of his appointment, submit a report to the Central Government in such manner and form, as may be prescribed, including a report whether in his opinion, any fraud has been committed in promotion, formation or management of the affairs of the company or not.

(5) On receipt of the report under sub-section (4), if the Central Government is satisfied that any fraud has been committed by the promoters, directors or any other officer of the company, it may direct further investigation into the affairs of the company and that a report shall be submitted within such time as may be specified.

(6) After considering the investigation report under sub-section (5), the Central Government may order that winding up may be proceeded under Part I of this Chapter or under the provision of this Part.

362. (1) The Official Liquidator shall expeditiously dispose of all the assets whether movable or immovable within sixty days of his appointment.

Sale of assets and recovery of debts due to company.

(2) The Official Liquidator shall serve a notice within thirty days of his appointment calling upon the debtors of the company or the contributories, as the case may be, to deposit within thirty days with him the amount payable to the company.

(3) Where any debtor does not deposit the amount under sub-section (2), the Central Government may, on an application made to it by the Official Liquidator, pass such orders as it thinks fit.

(4) The amount recovered under this section by the Official Liquidator shall be deposited in accordance with the provisions of section 349.

363. (1) The Official Liquidator within thirty days of his appointment shall call upon the creditors of the company to prove their claims in such manner as may be prescribed, within thirty days of the receipt of such call.

Settlement of claims of creditors by Official Liquidator.

(2) The Official Liquidator shall prepare a list of claims of creditors in such manner as may be prescribed and each creditor shall be communicated of the claims accepted or rejected along with reasons to be recorded in writing.

364. (1) Any creditor aggrieved by the decision of the Official Liquidator under section 363 may file an appeal before the Central Government within thirty days of such decision.

Appeal by creditor.

(2) The Central Government may after calling the report from the Official Liquidator either dismiss the appeal or modify the decision of the Official Liquidator.

(3) The Official Liquidator shall make payment to the creditors whose claims have been accepted.

(4) The Central Government may, at any stage during settlement of claims, if considers necessary, refer the matter to the Tribunal for necessary orders.

Order of
dissolution of
company.

365. (1) The Official Liquidator shall, if he is satisfied that the company is finally wound up, submit a final report to—

(i) the Central Government, in case no reference was made to the Tribunal under sub-section (4) of section 364; and

(ii) in any other case, the Central Government and the Tribunal.

(2) The Central Government, or as the case may be, the Tribunal on receipt of such report shall order that the company be dissolved.

(3) Where an order is made under sub-section (2), the Registrar shall strike off the name of the company from the register of companies and publish a notification to this effect.

CHAPTER XXI

PART I.—Companies Authorised to Register under this Act

Companies
capable of
being
registered.

366. (1) For the purposes of this Part, the word “company” includes any partnership firm, limited liability partnership, cooperative society, society or any other business entity formed under any other law for the time being in force which applies for registration under this Part.

(2) With the exceptions and subject to the provisions contained in this section, any company formed, whether before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act or of any other law for the time being in force or being otherwise duly constituted according to law, and consisting of seven or more members, may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee, in such manner as may be prescribed and the registration shall not be invalid by reason only that it has taken place with a view to the company's being wound up:

Provided that—

(i) a company registered under the Indian Companies Act, 1882 or under the Indian Companies Act, 1913 or the Companies Act, 1956, shall not register in pursuance of this section;

6 of 1882.
7 of 1913.
1 of 1956.

(ii) a company having the liability of its members limited by any Act of Parliament other than this Act or by any other law for the time being in force, shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;

(iii) a company shall be registered in pursuance of this section as a company limited by shares only if it has a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in the one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons;

(iv) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person, or where proxies are allowed, by proxy, at a general meeting summoned for the purpose;

(v) where a company not having the liability of its members limited by any Act of Parliament or any other law for the time being in force is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person, or where proxies are allowed, by proxy, at the meeting;

(vi) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(3) In computing any majority required for the purposes of sub-section (1), when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

367. On compliance with the requirements of this Chapter with respect to registration, and on payment of such fees, if any, as are payable under section 403, the Registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited and thereupon the company shall be so incorporated.

Certificate of registration of existing companies.

368. All property, movable and immovable (including actionable claims), belonging to or vested in a company at the date of its registration in pursuance of this Part, shall, on such registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

Vesting of property on registration.

369. The registration of a company in pursuance of this Part shall not affect its rights or liabilities in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

Saving of existing liabilities.

370. All suits and other legal proceedings taken by or against the company, or any public officer or member thereof, which are pending at the time of the registration of a company in pursuance of this Part, may be continued in the same manner as if the registration had not taken place:

Continuation of pending legal proceedings.

Provided that execution shall not issue against the property or persons of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company.

371. (1) When a company is registered in pursuance of this Part, sub-sections (2) to (7) shall apply.

Effect of registration under this Part.

(2) All provisions contained in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

(3) All the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows:—

(a) Table F in Schedule I shall not apply unless and except in so far as it is adopted by special resolution;

(b) the provisions of this Act relating to the numbering of shares shall not apply to any company whose shares are not numbered;

(c) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid;

(d) in the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid; and in the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives of deceased contributories, or with respect to the assignees of insolvent contributories, as the case may be, shall apply.

(4) The provisions of this Act with respect to—

(a) the registration of an unlimited company as a limited company;

(b) the powers of an unlimited company on registration as a limited company, to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called-up except in the event of winding up;

(c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called-up except in the event of winding up,

shall apply, notwithstanding anything in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(5) Nothing in this section shall authorise the company to alter any such provisions contained in any instrument constituting or regulating the company as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act.

(6) None of the provisions of this Act (apart from those of section 242) shall derogate from any power of altering its constitution or regulations which may be vested in the company, by virtue of any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(7) In this section, the expression "instrument" includes deed of settlement, deed of partnership, or limited liability partnership.

Power of
Court to stay
or restrain
proceedings.

372. The provisions of this Act with respect to staying and restraining suits and other legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order, shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and other legal proceedings against any contributory of the company.

Suits stayed
on winding up
order.

373. Where an order has been made for winding up, or a provisional liquidator has been appointed for, a company registered in pursuance of this Part, no suit or other legal proceeding shall be proceeded with or commenced against the company or any contributory of the company in respect of any debt of the company, except by leave of the Tribunal and except on such terms as the Tribunal may impose.

Obligations
of companies
registering
under this
Part.

374. Every company which is seeking registration under this Part shall,—

(a) ensure that secured creditors of the company, prior to its registration under this Part, have either consented to or have given their no objection to company's registration under this Part;

(b) publish in a newspaper, advertisement one in English and one in vernacular language in such form as may be prescribed giving notice about registration under this Part, seeking objections and address them suitably;

(c) file an affidavit, duly notarised, from all the members or partners to provide that in the event of registration under this Part, necessary documents or papers shall be submitted to the registering or other authority with which the company was earlier registered, for its dissolution as partnership firm, limited liability partnership, cooperative society, society or any other business entity, as the case may be.

(d) comply with such other conditions as may be prescribed.

PART II.—*Winding up of unregistered companies*

375. (1) Subject to the provisions of this Part, any unregistered company may be wound up under this Act, in such manner as may be prescribed, and all the provisions of this Act, with respect to winding up shall apply to an unregistered company, with the exceptions and additions mentioned in sub-sections (2) to (4).

Winding up
of
unregistered
companies.

(2) No unregistered company shall be wound up under this Act voluntarily.

(3) An unregistered company may be wound up under the following circumstances, namely:—

(a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

(b) if the company is unable to pay its debts;

(c) if the Tribunal is of opinion that it is just and equitable that the company should be wound up.

(4) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding one lakh rupees then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Tribunal may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has, for three weeks after the service of the demand, neglected to pay the sum or to secure or compound for it to the satisfaction of the creditor;

(b) if any suit or other legal proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character as a member, and notice in writing of the institution of the suit or other legal proceeding having been served on the company by leaving the same at its principal place of business or by delivering it to the secretary, or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Tribunal may approve or direct, the company has not, within ten days after service of the notice,—

(i) paid, secured or compounded for the debt or demand;

(ii) procured the suit or other legal proceeding to be stayed; or

(iii) indemnified the defendant to his satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(c) if execution or other process issued on a decree or order of any Court or Tribunal in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied in whole or in part;

(d) if it is otherwise proved to the satisfaction of the Tribunal that the company is unable to pay its debts.

Explanation.—For the purposes of this Part, the expression "unregistered company"—

(a) shall not include—

(i) a railway company incorporated under any Act of Parliament or other Indian law or any Act of Parliament of the United Kingdom;

(ii) a company registered under this Act; or

(iii) a company registered under any previous companies law and not being a company the registered office whereof was in Burma, Aden, Pakistan immediately before the separation of that country from India; and

(b) save as aforesaid, shall include any partnership firm, limited liability partnership or society or co-operative society, association or company consisting of more than seven members at the time when the petition for winding up the partnership firm, limited liability partnership or society or co-operative society, association or company, as the case may be, is presented before the Tribunal.

Power to
wind up
foreign
companies,
although
dissolved.

376. Where a body corporate incorporated outside India which has been carrying on business in India, ceases to carry on business in India, it may be wound up as an unregistered company under this Part, notwithstanding that the body corporate has been dissolved or otherwise ceased to exist as such under or by virtue of the laws of the country under which it was incorporated.

Provisions of
Chapter
cumulative.

377. (1) The provisions of this Part, with respect to unregistered companies shall be in addition to and not in derogation of, any provisions hereinbefore in this Act contained with respect to the winding up of companies by the Tribunal.

(2) The Tribunal or Official Liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by the Tribunal or Official Liquidator in winding up of companies formed and registered under this Act:

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

Saving and
construction
of enactments
conferring
power to wind
up partnership
firm,
association or
company, etc.,
in certain
cases.

378. Nothing in this Part, shall affect the operation of any enactment which provides for any partnership firm, limited liability partnership or society or co-operative society, association or company being wound up, or being wound up as a company or as an unregistered company, under the Companies Act, 1956, or any Act repealed by that Act:

1 of 1956.

Provided that references in any such enactment to any provision contained in the Companies Act, 1956 or in any Act repealed by that Act shall be read as references to the corresponding provision, if any, contained in this Act.

1 of 1956.

CHAPTER XXII

COMPANIES INCORPORATED OUTSIDE INDIA

Application
of Act to
foreign
companies.

379. Where not less than fifty per cent. of the paid-up share capital, whether equity or preference or partly equity and partly preference, of a foreign company is held by one or more citizens of India or by one or more companies or bodies corporate incorporated in India, or by one or more citizens of India and one or more companies or bodies corporate incorporated in India, whether singly or in the aggregate, such company shall comply with the provisions of this Chapter and such other provisions of this Act as may be prescribed with regard to the business carried on by it in India as if it were a company incorporated in India.

380. (1) Every foreign company shall, within thirty days of the establishment of its place of business in India, deliver to the Registrar for registration—

Documents, etc., to be delivered to Registrar by foreign companies.

(a) a certified copy of the charter, statutes or memorandum and articles, of the company or other instrument constituting or defining the constitution of the company and, if the instrument is not in the English language, a certified translation thereof in the English language;

(b) the full address of the registered or principal office of the company;

(c) a list of the directors and secretary of the company containing such particulars as may be prescribed;

(d) the name and address or the names and addresses of one or more persons resident in India authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company;

(e) the full address of the office of the company in India which is deemed to be its principal place of business in India;

(f) particulars of opening and closing of a place of business in India on earlier occasion or occasions;

(g) declaration that none of the directors of the company or the authorised representative in India has ever been convicted or debarred from formation of companies and management in India or abroad; and

(h) any other information as may be prescribed.

(2) Every foreign company existing at the commencement of this Act shall, if it has not delivered to the Registrar before such commencement, the documents and particulars specified in sub-section (1) of section 592 of the Companies Act, 1956, continue to be subject to the obligation to deliver those documents and particulars in accordance with that Act.

1 of 1956.

(3) Where any alteration is made or occurs in the documents delivered to the Registrar under this section, the foreign company shall, within thirty days of such alteration, deliver to the Registrar for registration, a return containing the particulars of the alteration in the prescribed form.

381. (1) Every foreign company shall, in every calendar year,—

Accounts of foreign company.

(a) make out a balance sheet and profit and loss account in such form, containing such particulars and including or having annexed or attached thereto such documents as may be prescribed; and

(b) deliver a copy of those documents to the Registrar:

Provided that the Central Government may, by notification, direct that, in the case of any foreign company or class of foreign companies, the requirements of clause (a) shall not apply, or shall apply subject to such exceptions and modifications as may be specified in that notification.

(2) If any such document as is mentioned in sub-section (1) is not in the English language, there shall be annexed to it a certified translation thereof in the English language.

(3) Every foreign company shall send to the Registrar along with the documents required to be delivered to him under sub-section (1), a copy of a list in the prescribed form of all places of business established by the company in India as at the date with reference to which the balance sheet referred to in sub-section (1) is made out.

382. Every foreign company shall—

Display of name, etc., of foreign company.

(a) conspicuously exhibit on the outside of every office or place where it carries on business in India, the name of the company and the country in which it is incorporated, in letters easily legible in English characters, and also in the characters of the language or one of the languages in general use in the locality in which the office or place is situate;

(b) cause the name of the company and of the country in which the company is incorporated, to be stated in legible English characters in all business letters, bill-heads and letter paper, and in all notices, and other official publications of the company; and

(c) if the liability of the members of the company is limited, cause notice of that fact—

(i) to be stated in every such prospectus issued and in all business letters, bill-heads, letter paper, notices, advertisements and other official publications of the company, in legible English characters; and

(ii) to be conspicuously exhibited on the outside of every office or place where it carries on business in India, in legible English characters and also in legible characters of the language or one of the languages in general use in the locality in which the office or place is situate.

Service on
foreign
company.

383. Any process, notice, or other document required to be served on a foreign company shall be deemed to be sufficiently served, if addressed to any person whose name and address have been delivered to the Registrar under section 380 and left at, or sent by post to, the address which has been so delivered to the Registrar or by electronic mode.

Debentures,
annual return,
registration of
charges,
books of
account and
their
inspection.

384. (1) The provisions of section 71 shall apply *mutatis mutandis* to a foreign company.

(2) The provisions of section 92 shall, subject to such exceptions, modifications and adaptations as may be made therein by rules made under this Act, apply to a foreign company as they apply to a company incorporated in India.

(3) The provisions of section 128 shall apply to a foreign company to the extent of requiring it to keep at its principal place of business in India, the books of account referred to in that section, with respect to monies received and spent, sales and purchases made, and assets and liabilities, in the course of or in relation to its business in India.

(4) The provisions of Chapter VI shall apply *mutatis mutandis* to charges on properties which are created or acquired by any foreign company.

(5) The provisions of Chapter XIV shall apply *mutatis mutandis* to the Indian business of a foreign company as they apply to a company incorporated in India.

Fee for
registration of
documents.

385. There shall be paid to the Registrar for registering any document required by the provisions of this Chapter to be registered by him, such fee, as may be prescribed.

Interpretation.

386. For the purposes of the foregoing provisions of this Chapter,—

(a) the expression “certified” means certified in the prescribed manner to be a true copy or a correct translation;

(b) the expression “director”, in relation to a foreign company, includes any person in accordance with whose directions or instructions the Board of Directors of the company is accustomed to act; and

(c) the expression “place of business” includes a share transfer or registration office.

Dating of
prospectus
and
particulars to
be contained
therein.

387. (1) No person shall issue, circulate or distribute in India any prospectus offering to subscribe for securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless the prospectus is dated and signed, and—

(a) contains particulars with respect to the following matters, namely:—

(i) the instrument constituting or defining the constitution of the company;

(ii) the enactments or provisions by or under which the incorporation of the company was effected;

(iii) address in India where the said instrument, enactments or provisions, or copies thereof, and if the same are not in the English language, a certified translation thereof in the English language can be inspected;

(iv) the date on which and the country in which the company would be or was incorporated; and

(v) whether the company has established a place of business in India and, if so, the address of its principal office in India; and

(b) states the matters specified under section 26:

Provided that sub-clauses (i), (ii) and (iii) of clause (a) of this sub-section shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

(2) Any condition requiring or binding an applicant for securities to waive compliance with any requirement imposed by virtue of sub-section (1), or purporting to impute him with notice of any contract, documents or matter not specifically referred to in the prospectus, shall be void.

(3) No person shall issue to any person in India a form of application for securities of such a company or intended company as is mentioned in sub-section (1), unless the form is issued with a prospectus which complies with the provisions of this Chapter and such issue does not contravene the provisions of section 388:

Provided that this sub-section shall not apply if it is shown that the form of application was issued in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to securities.

(4) This section —

(a) shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to securities of the company, whether an applicant for securities will or will not have the right to renounce in favour of other persons; and

(b) except in so far as it requires a prospectus to be dated, to the issue of a prospectus relating to securities which are or are to be in all respects uniform with securities previously issued and for the time being dealt in or quoted on a recognised stock exchange,

but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(5) Nothing in this section shall limit or diminish any liability which any person may incur under any law for the time being in force in India or under this Act apart from this section.

388. (1) No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India,

Provisions as to expert's consent and allotment.

whether the company has or has not been established, or when formed will or will not establish, a place of business in India,...

(a) if, where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery of the prospectus for registration withdrawn, his written consent to the issue of the prospectus with the statement included in the form and context in which it is included, or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or

(b) if the prospectus does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions of sections 33 and 40, so far as applicable.

(2) For the purposes of this section, a statement shall be deemed to be included in a prospectus, if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

Registration
of prospectus.

389. No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless before the issue, circulation or distribution of the prospectus in India, a copy thereof certified by the chairperson of the company and two other directors of the company as having been approved by resolution of the managing body has been delivered for registration to the Registrar and the prospectus states on the face of it that a copy has been so delivered, and there is endorsed on or attached to the copy, any consent to the issue of the prospectus required by section 388 and such documents as may be prescribed.

Offer of
Indian
Depository
Receipts.

390. Notwithstanding anything contained in any other law for the time being in force, the Central Government may make rules applicable for—

(a) the offer of Indian Depository Receipts;

(b) the requirement of disclosures in prospectus or letter of offer issued in connection with Indian Depository Receipts;

(c) the manner in which the Indian Depository Receipts shall be dealt with in a depository mode and by custodian and underwriters; and

(d) the manner of sale, transfer or transmission of Indian Depository Receipts,

by a company incorporated or to be incorporated outside India, whether the company has or has not established, or will or will not establish, any place of business in India.

Application
of sections 34
to 36 and
Chapter XX.

391. (1) The provisions of sections 34 to 36 (both inclusive) shall apply to—

(i) the issue of a prospectus by a company incorporated outside India under section 389 as they apply to prospectus issued by an Indian company;

(ii) the issue of Indian Depository Receipts by a foreign company.

(2) The provisions of Chapter XX shall apply *mutatis mutandis* for closure of the place of business of a foreign company in India as if it were a company incorporated in India.

Punishment
for
contravention.

392. Without prejudice to the provisions of section 391, if a foreign company contravenes the provisions of this Chapter, the foreign company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and in the case of a continuing offence, with an additional fine which may extend to fifty

thousand rupees for every day after the first during which the contravention continues and every officer of the foreign company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

393. Any failure by a company to comply with the provisions of this Chapter shall not affect the validity of any contract, dealing or transaction entered into by the company or its liability to be sued in respect thereof, but the company shall not be entitled to bring any suit, claim any set-off, make any counter-claim or institute any legal proceeding in respect of any such contract, dealing or transaction, until the company has complied with the provisions of this Act applicable to it.

Company's failure to comply with provisions of this Chapter not to affect validity of contracts, etc.

CHAPTER XXIII

GOVERNMENT COMPANIES

394. (1) Where the Central Government is a member of a Government company, the Central Government shall cause an annual report on the working and affairs of that company to be—

Annual reports on Government companies.

(a) prepared within three months of its annual general meeting before which the comments given by the Comptroller and Auditor-General of India and the audit report is placed under the proviso to sub-section (6) of section 143; and

(b) as soon as may be after such preparation, laid before both Houses of Parliament together with a copy of the audit report and comments upon or supplement to the audit report, made by the Comptroller and Auditor-General of India.

(2) Where in addition to the Central Government, any State Government is also a member of a Government company, that State Government shall cause a copy of the annual report prepared under sub-section (1) to be laid before the House or both Houses of the State Legislature together with a copy of the audit report and the comments upon or supplement to the audit report referred to in sub-section (1).

395. (1) Where the Central Government is not a member of a Government company, every State Government which is a member of that company, or where only one State Government is a member of the company, that State Government shall cause an annual report on the working and affairs of the company to be—

Annual reports where one or more State Governments are members of companies.

(a) prepared within the time specified in sub-section (1) of section 394; and

(b) as soon as may be after such preparation, laid before the House or both Houses of the State Legislature together with a copy of the audit report and comments upon or supplement to the audit report referred to in sub-section (1) of that section.

(2) The provisions of this section and section 394 shall, so far as may be, apply to a Government company in liquidation as they apply to any other Government company.

CHAPTER XXIV

REGISTRATION OFFICES AND FEES

396. (1) For the purposes of exercising such powers and discharging such functions as are conferred on the Central Government by or under this Act or under the rules made thereunder and for the purposes of registration of companies under this Act, the Central Government shall, by notification, establish such number of offices at such places as it thinks fit, specifying their jurisdiction.

Registration offices.

(2) The Central Government may appoint such Registrars, Additional, Joint, Deputy and Assistant Registrars as it considers necessary for the registration of companies and discharge of various functions under this Act, and the powers and duties that may be exercisable by such officers shall be such as may be prescribed.

(3) The terms and conditions of service, including the salaries payable to persons appointed under sub-section (2), shall be such as may be prescribed.

(4) The Central Government may direct a seal or seals to be prepared for the authentication of documents required for, or connected with, the registration of companies.

Admissibility
of certain
documents as
evidence.

397. Notwithstanding anything contained in any other law for the time being in force, any document reproducing or derived from returns and documents filed by a company with the Registrar on paper or in electronic form or stored on any electronic data storage device or computer readable media by the Registrar, and authenticated by the Registrar or any other officer empowered by the Central Government in such manner as may be prescribed, shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder without further proof or production of the original as evidence of any contents of the original or of any fact stated therein of which direct evidence is admissible.

Provisions
relating to
filing of
applications,
documents,
inspection,
etc., in
electronic
form.

398. (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in section 6 of the Information Technology Act, 2000, the Central Government may make rules so as to require from such date as may be prescribed in the rules that—

21 of 2000.

(a) such applications, balance sheet, prospectus, return, declaration, memorandum, articles, particulars of charges, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated in such manner as may be prescribed;

(b) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, in the electronic form and authenticated in such manner as may be prescribed;

(c) such applications, balance sheet, prospectus, return, register, memorandum, articles, particulars of charges, or any other particulars or document and return filed under this Act or rules made thereunder shall be maintained by the Registrar in the electronic form and registered or authenticated, as the case may be, in such manner as may be prescribed;

(d) such inspection of the memorandum, articles, register, index, balance sheet, return or any other particulars or document maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form in such manner as may be prescribed;

(e) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form and in such manner as may be prescribed; and

(f) the Registrar shall register change of registered office, alteration of memorandum or articles, prospectus, issue certificate of incorporation, register such document, issue such certificate, record the notice, receive such communication as may be required to be registered or issued or recorded or received, as the case may be, under this Act or the rules made thereunder or perform duties or discharge functions or exercise powers under this Act or the rules made thereunder or do any act which is by this Act directed to be performed or discharged or exercised or done by the Registrar in the electronic form in such manner as may be prescribed.

Explanation.— For the removal of doubts, it is hereby clarified that the rules made under this section shall not relate to imposition of fines or other pecuniary penalties or demand or payment of fees or contravention of any of the provisions of this Act or punishment therefor.

(2) The Central Government may, by notification, frame a scheme to carry out the provisions of sub-section (1) through the electronic form.

399. (1) Save as otherwise provided elsewhere in this Act, any person may—

(a) inspect by electronic means any documents kept by the Registrar in accordance with the rules made, being documents filed or registered by him in pursuance of this Act, or making a record of any fact required or authorised to be recorded or registered in pursuance of this Act, on payment for each inspection of such fees as may be prescribed;

Inspection, production and evidence of documents kept by Registrar.

(b) require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document to be certified by the Registrar, on payment in advance of such fees as may be prescribed:

Provided that the rights conferred by this sub-section shall be exercisable—

(i) in relation to documents delivered to the Registrar with a prospectus in pursuance of section 26, only during the fourteen days beginning with the date of publication of the prospectus; and at other times, only with the permission of the Central Government; and

(ii) in relation to documents so delivered in pursuance of clause (b) of sub-section (1) of section 388, only during the fourteen days beginning with the date of the prospectus; and at other times, only with the permission of the Central Government.

(2) No process for compelling the production of any document kept by the Registrar shall issue from any court or the Tribunal except with the leave of that court or the Tribunal and any such process, if issued, shall bear thereon a statement that it is issued with the leave of the court or the Tribunal.

(3) A copy of, or extract from, any document kept and registered at any of the offices for the registration of companies under this Act, certified to be a true copy by the Registrar (whose official position it shall not be necessary to prove), shall, in all legal proceedings, be admissible in evidence as of equal validity with the original document.

400. The Central Government may also provide in the rules made under section 398 and section 399 that the electronic form for the purposes specified in these sections shall be exclusive, or in the alternative or in addition to the physical form, therefor.

Electronic form to be exclusive, alternative or in addition to physical form.

401. The Central Government may provide such value added services through the electronic form and levy such fee thereon as may be prescribed.

Provision of value added services through electronic form.

402. All the provisions of the Information Technology Act, 2000 relating to the electronic records, including the manner and format in which the electronic records shall be filed, in so

Application of provisions of Information Technology Act, 2000.

far as they are not inconsistent with this Act, shall apply in relation to the records in electronic form specified under section 398.

Fee for filing,
etc.

403. (1) Any document, required to be submitted, filed, registered or recorded, or any fact or information required or authorised to be registered under this Act, shall be submitted, filed, registered or recorded within the time specified in the relevant provision on payment of such fee as may be prescribed:

Provided that any document, fact or information may be submitted, filed, registered or recorded, after the time specified in relevant provision for such submission, filing, registering or recording, within a period of two hundred and seventy days from the date by which it should have been submitted, filed, registered or recorded, as the case may be, on payment of such additional fee as may be prescribed:

Provided further that any such document, fact or information may, without prejudice to any other legal action or liability under the Act, be also submitted, filed, registered or recorded, after the first time specified in first proviso on payment of fee and additional fee specified under this section.

(2) Where a company fails or commits any default to submit, file, register or record any document, fact or information under sub-section (1) before the expiry of the period specified in the first proviso to that sub-section with additional fee, the company and the officers of the company who are in default, shall, without prejudice to the liability for payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default.

Fees, etc., to
be credited
into public
account.

404. All fees, charges and other sums received by any Registrar, Additional, Joint, Deputy or Assistant Registrar or any other officer of the Central Government in pursuance of any provision of this Act shall be paid into the public account of India in the Reserve Bank of India.

CHAPTER XXV

COMPANIES TO FURNISH INFORMATION OR STATISTICS

Power of
Central
Government
to direct
companies to
furnish
information
or statistics.

405. (1) The Central Government may, by order, require companies generally, or any class of companies, or any company, to furnish such information or statistics with regard to their or its constitution or working, and within such time, as may be specified in the order.

(2) Every order under sub-section (1) shall be published in the Official Gazette and may be addressed to companies generally or to any class of companies, in such manner, as the Central Government may think fit and the date of such publication shall be deemed to be the date on which requirement for information or statistics is made on such companies or class of companies, as the case may be.

(3) For the purpose of satisfying itself that any information or statistics furnished by a company or companies in pursuance of any order under sub-section (1) is correct and complete, the Central Government may by order require such company or companies to produce such records or documents in its possession or allow inspection thereof by such officer or furnish such further information as that Government may consider necessary.

(4) If any company fails to comply with an order made under sub-section (1) or sub-section (3), or knowingly furnishes any information or statistics which is incorrect or incomplete in any material respect, the company shall be punishable with fine which may extend to twenty-five thousand rupees and every officer of the company who is in default, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to three lakh rupees, or with both.

(5) Where a foreign company carries on business in India, all references to a company in this section shall be deemed to include references to the foreign company in relation, and only in relation, to such business.

CHAPTER XXVI

Nidhis

406. (1) In this section, "*Nidhi*" means a company which has been incorporated as a *Nidhi* with the object of cultivating the habit of thrift and savings amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit, and which complies with such rules as are prescribed by the Central Government for regulation of such class of companies.

Power to
modify Act in
its
application to
Nidhis.

(2) Save as otherwise expressly provided, the Central Government may, by notification, direct that any of the provisions of this Act shall not apply, or shall apply with such exceptions, modifications and adaptations as may be specified in that notification, to any *Nidhi* or *Nidhis* of any class or description as may be specified in that notification.

(3) A copy of every notification proposed to be issued under sub-section (2), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

CHAPTER XXVII

NATIONAL COMPANY LAW TRIBUNAL AND APPELLATE TRIBUNAL

407. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "Chairperson" means the Chairperson of the Appellate Tribunal;

(b) "Judicial Member" means a member of the Tribunal or the Appellate Tribunal appointed as such and includes the President or the Chairperson, as the case may be;

(c) "Member" means a member, whether Judicial or Technical of the Tribunal or the Appellate Tribunal and includes the President or the Chairperson, as the case may be;

(d) "President" means the President of the Tribunal;

(e) "Technical Member" means a member of the Tribunal or the Appellate Tribunal appointed as such.

408. The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the National Company Law Tribunal consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

Constitution
of National
Company
Law Tribunal.

409. (1) The President shall be a person who is or has been a Judge of a High Court for five years.

Qualification
of President
and Members
of Tribunal.

(2) A person shall not be qualified for appointment as a Judicial Member unless he—

(a) is, or has been, a judge of a High Court; or

(b) is, or has been, a District Judge for at least five years; or

(c) has, for at least ten years been an advocate of a court.

Explanation.—For the purposes of clause (c), in computing the period during which a person has been an advocate of a court, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he become an advocate.

(3) A person shall not be qualified for appointment as a Technical Member unless he—

(a) has, for at least fifteen years been a member of the Indian Corporate Law Service or Indian Legal Service out of which at least three years shall be in the pay

scale of Joint Secretary to the Government of India or equivalent or above in that service; or

(b) is, or has been, in practice as a chartered accountant for at least fifteen years; or

(c) is, or has been, in practice as a cost accountant for at least fifteen years; or

(d) is, or has been, in practice as a company secretary for at least fifteen years; or

(e) is a person of proven ability, integrity and standing having special knowledge and experience, of not less than fifteen years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies; or

(f) is, or has been, for at least five years, a presiding officer of a Labour Court, Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947.

14 of 1947.

Constitution of Appellate Tribunal.

410. The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing appeals against the orders of the Tribunal.

Qualifications of chairperson and Members of Appellate Tribunal.

411. (1) The chairperson shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

(2) A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years.

(3) A Technical Member shall be a person of proven ability, integrity and standing having special knowledge and experience, of not less than twenty-five years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies.

Selection of Members of Tribunal and Appellate Tribunal.

412. (1) The President of the Tribunal and the chairperson and Judicial Members of the Appellate Tribunal, shall be appointed after consultation with the Chief Justice of India.

(2) The Members of the Tribunal and the Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of—

(a) Chief Justice of India or his nominee—Chairperson;

(b) a senior Judge of the Supreme Court or a Chief Justice of High Court—Member;

(c) Secretary in the Ministry of Corporate Affairs—Member;

(d) Secretary in the Ministry of Law and Justice—Member; and

(e) Secretary in the Department of Financial Services in the Ministry of Finance—Member.

(3) The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.

(4) The Selection Committee shall determine its procedure for recommending persons under sub-section (2).

(5) No appointment of the Members of the Tribunal or the Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect in the constitution of the Selection Committee.

Term of office of President, chairperson and other Members.

413. (1) The President and every other Member of the Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(2) A Member of the Tribunal shall hold office as such until he attains,-----

(a) in the case of the President, the age of sixty-seven years;

(b) in the case of any other Member, the age of sixty-five years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

(3) The chairperson or a Member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(4) A Member of the Appellate Tribunal shall hold office as such until he attains,-----

(a) in the case of the Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-seven years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

414. The salary, allowances and other terms and conditions of service of the Members of the Tribunal and the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Members shall be varied to their disadvantage after their appointment.

Salary, allowances and other terms and conditions of service of Members.

415. (1) In the event of the occurrence of any vacancy in the office of the President or the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the President or the Chairperson, as the case may be, until the date on which a new President or Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

Acting President and Chairperson of Tribunal or Appellate Tribunal.

(2) When the President or the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the President or the Chairperson, as the case may be, until the date on which the President or the Chairperson resumes his duties.

416. The President, the Chairperson or any Member may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Resignation of Members.

Provided that the President, the Chairperson, or the Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

417. (1) The Central Government may, after consultation with the Chief Justice of India, remove from office the President, Chairperson or any Member, who—

Removal of Members.

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such President, the Chairperson, or Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, the Chairperson or Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President, the Chairperson or the Member shall not be removed on any of the grounds specified in clauses (b) to (e) without giving him a reasonable opportunity of being heard.

(2) Without prejudice to the provisions of sub-section (1), the President, the Chairperson or the Member shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government in which such President, the Chairperson or Member had been informed of the charges against him and given a reasonable opportunity of being heard.

(3) The Central Government may, with the concurrence of the Chief Justice of India, suspend from office, the President, the Chairperson or Member in respect of whom reference has been made to the Judge of the Supreme Court under sub-section (2) until the Central Government has passed orders on receipt of the report of the Judge of the Supreme Court on such reference.

(4) The Central Government shall, after consultation with the Supreme Court, make rules to regulate the procedure for the inquiry on the ground of proved misbehaviour or incapacity referred to in sub-section (2).

Staff of
Tribunal and
Appellate
Tribunal.

418. (1) The Central Government shall, in consultation with the Tribunal and the Appellate Tribunal, provide the Tribunal and the Appellate Tribunal, as the case may be, with such officers and other employees as may be necessary for the exercise of the powers and discharge of the functions of the Tribunal and the Appellate Tribunal.

(2) The officers and other employees of the Tribunal and the Appellate Tribunal shall discharge their functions under the general superintendence and control of the President, or as the case may be, the Chairperson, or any other Member to whom powers for exercising such superintendence and control are delegated by him.

(3) The salaries and allowances and other conditions of service of the officers and other employees of the Tribunal and the Appellate Tribunal shall be such as may be prescribed.

Benches of
Tribunal.

419. (1) There shall be constituted such number of Benches of the Tribunal, as may, by notification, be specified by the Central Government.

(2) The Principal Bench of the Tribunal shall be at New Delhi which shall be presided over by the President of the Tribunal.

(3) The powers of the Tribunal shall be exercisable by Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member:

Provided that it shall be competent for the Members of the Tribunal authorised in this behalf to function as a Bench consisting of a single Judicial Member and exercise the powers of the Tribunal in respect of such class of cases or such matters pertaining to such class of cases, as the President may, by general or special order, specify:

Provided further that if at any stage of the hearing of any such case or matter, it appears to the Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the President, or, as the case may be, referred to him for transfer, to such Bench as the President may deem fit.

(4) The President shall, for the disposal of any case relating to rehabilitation, restructuring, reviving or winding up, of companies, constitute one or more Special Benches consisting of three or more Members, majority necessarily being of Judicial Members.

(5) If the Members of a Bench differ in opinion on any point or points, it shall be decided according to the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

420. (1) The Tribunal may, after giving the parties to any proceeding before it, a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.

Orders of
Tribunal.

(2) The Tribunal may, at any time within two years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act.

(3) The Tribunal shall send a copy of every order passed under this section to all the parties concerned.

421. (1) Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.

Appeal from
orders of
Tribunal.

(2) No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

(4) On the receipt of an appeal under sub-section (1), the Appellate Tribunal shall, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the Tribunal and the parties to appeal.

422. (1) Every application or petition presented before the Tribunal and every appeal filed before the Appellate Tribunal shall be dealt with and disposed of by it as expeditiously as possible and every endeavour shall be made by the Tribunal or the Appellate Tribunal, as the case may be, for the disposal of such application or petition or appeal within three months from the date of its presentation before the Tribunal or the filing of the appeal before the Appellate Tribunal.

Expeditious
disposal by
Tribunal and
Appellate
Tribunal.

(2) Where any application or petition or appeal is not disposed of within the period specified in sub-section (1), the Tribunal or, as the case may be, the Appellate Tribunal, shall record the reasons for not disposing of the application or petition or the appeal, as the case may be, within the period so specified; and the President or the Chairperson, as the case may be, may, after taking into account the reasons so recorded, extend the period referred to in sub-section (1) by such period not exceeding ninety days as he may consider necessary.

423. Any person aggrieved by any order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of receipt of the order of the Appellate Tribunal to him on any question of law arising out of such order:

Appeal to
Supreme
Court.

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Procedure
before
Tribunal and
Appellate
Tribunal.

424. (1) The Tribunal and the Appellate Tribunal shall not, while disposing of any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice, and, subject to the other provisions of this Act and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.

5 of 1908.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;

1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

(3) Any order made by the Tribunal or the Appellate Tribunal may be enforced by that Tribunal in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Tribunal or the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situate; or

(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(4) All proceedings before the Tribunal or the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Tribunal and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Power to
punish for
contempt.

425. The Tribunal and the Appellate Tribunal shall have the same jurisdiction, powers and authority in respect of contempt of themselves as the High Court has and may exercise, for this purpose, the powers under the provisions of the Contempt of Courts Act, 1971, which shall have the effect subject to modifications that—

70 of 1971.

(a) the reference therein to a High Court shall be construed as including a reference to the Tribunal and the Appellate Tribunal; and

(b) the reference to Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officers as the Central Government may, specify in this behalf.

426. The Tribunal or the Appellate Tribunal may, by general or special order, direct, subject to such conditions, if any, as may be specified in the order, any of its officers or employees or any other person authorised by it to inquire into any matter connected with any proceeding or, as the case may be, appeal before it and to report to it in such manner as may be specified in the order.

Delegation of powers.

45 of 1860.

427. The President, Members, officers and other employees of the Tribunal and the Chairperson, Members, officers and other employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

President, Members, officers, etc., to be public servants.

428. No suit, prosecution or other legal proceeding shall lie against the Tribunal, the President, Member, officer or other employee, or against the Appellate Tribunal, the Chairperson, Member, officer or other employees thereof or liquidator or any other person authorised by the Tribunal or the Appellate Tribunal for the discharge of any function under this Act in respect of any loss or damage caused or likely to be caused by any act which is in good faith done or intended to be done in pursuance of this Act.

Protection of action taken in good faith.

429. (1) The Tribunal may, in any proceeding relating to a sick company or winding up of any other company, in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such sick or other company, are situate or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—

Power to seek assistance of Chief Metropolitan Magistrate, etc.

(a) take possession of such property, books of account or other documents; and

(b) cause the same to be entrusted to the Tribunal or other person authorised by it.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector done in pursuance of this section shall be called in question in any court or before any authority on any ground whatsoever.

430. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Tribunal or the Appellate Tribunal is empowered to determine by or under this Act or any other law for the time being in force and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any other law for the time being in force, by the Tribunal or the Appellate Tribunal.

Civil court not to have jurisdiction.

431. No act or proceeding of the Tribunal or the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Tribunal or the Appellate Tribunal, as the case may be.

Vacancy in Tribunal or Appellate Tribunal not to invalidate acts or proceedings.

432. A party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be.

Right to legal representation.

Limitation.	433. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be.	36 of 1963.
Transfer of certain pending proceedings.	<p>434. (1) On such date as may be notified by the Central Government in this behalf,—</p> <p>(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956, immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;</p> <p>(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order;</p> <p>Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days;</p> <p>(c) all proceedings under the Companies Act, 1956, including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer.</p> <p>(d) any appeal preferred to the Appellate Authority for Industrial and Financial Reconstruction or any reference made or inquiry pending to or before the Board of Industrial and Financial Reconstruction or any proceeding of whatever nature pending before the Appellate Authority for Industrial and Financial Reconstruction or the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 immediately before the commencement of this Act shall stand abated:</p> <p>Provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make a reference to the Tribunal under this Act within one hundred and eighty days from the commencement of this Act in accordance with the provisions of this Act:</p> <p>Provided further that no fees shall be payable for making such reference under this Act by a company whose appeal or reference or inquiry stands abated under this clause.</p> <p>(2) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.</p>	<p>1 of 1956.</p> <p>1 of 1956.</p> <p>1 of 1986.</p>

CHAPTER XXVIII

SPECIAL COURTS

Establishment of Special Courts.	435. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.
	(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding office of a Sessions Judge or an Additional Sessions Judge.

2 of 1974.

436. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Offences
triable by
Special
Courts.

(a) all offences under this Act shall be triable only by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned;

2 of 1974.

(b) where a person accused of, or suspected of the commission of, an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers that the detention of such person upon or before the expiry of the period of detention is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

2 of 1974.

(c) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973 in relation to an accused person who has been forwarded to him under that section; and

(d) a Special Court may, upon perusal of the police report of the facts constituting an offence under this Act or upon a complaint in that behalf, take cognizance of that offence without the accused being committed to it for trial.

2 of 1974.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial.

2 of 1974.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court may, if it thinks fit, try in a summary way any offence under this Act which is punishable with imprisonment for a term not exceeding three years:

Provided that in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one year shall be passed:

Provided further that when at the commencement of, or in the course of, a summary trial, it appears to the Special Court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Court shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or rehear the case in accordance with the procedure for the regular trial.

2 of 1974.

437. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Appeal and
revision.

2 of 1974.

438. Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

Application
of Code to
proceedings
before
Special Court

Offences to
be non-
cognizable.

439. (1) Notwithstanding anything in the Code of Criminal Procedure, 1973, every offence under this Act except the offences referred to in sub-section (6) of section 212 shall be deemed to be non-cognizable within the meaning of the said Code.

2 of 1974.

(2) No court shall take cognizance of any offence under this Act which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar, a shareholder of the company, or of a person authorised by the Central Government in that behalf.

Provided that the court may take cognizance of offences relating to issue and transfer of securities and non-payment of dividend, on a complaint in writing, by a person authorised by the Securities and Exchange Board of India:

Provided further that nothing in this sub-section shall apply to a prosecution by a company of any of its officers.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where the complainant under sub-section (2) is the Registrar or a person authorised by the Central Government, the presence of such officer before the Court trying the offences shall not be necessary unless the court requires his personal attendance at the trial.

2 of 1974.

(4) The provisions of sub-section (2) shall not apply to any action taken by the liquidator of a company in respect of any offence alleged to have been committed in respect of any of the matters in Chapter XX or in any other provision of this Act relating to winding up of companies.

Explanation.—The liquidator of a company shall not be deemed to be an officer of the company within the meaning of sub-section (2).

Transitional
provisions.

440. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

2 of 1974.

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.

Compounding
of certain
offences.

441. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by a company or any officer thereof) with fine only, may, either before or after the institution of any prosecution, be compounded by—

2 of 1974.

(a) the Tribunal; or

(b) where the maximum amount of fine which may be imposed for such offence does not exceed five lakh rupees, by the Regional Director or any officer authorised by the Central Government,

on payment or credit, by the company or, as the case may be, the officer, to the Central Government of such sum as that Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, may specify:

Provided that the sum so specified shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded:

Provided further that in specifying the sum required to be paid or credited for the compounding of an offence under this sub-section, the sum, if any, paid by way of additional fee under sub-section (2) of section 403 shall be taken into account:

Provided also that any offence covered under this sub-section by any company or its officer shall not be compounded if the investigation against such company has been initiated or is pending under this Act.

(2) Nothing in sub-section (1) shall apply to an offence committed by a company or its officer within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.—For the purposes of this section,—

(a) any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence;

(b) “Regional Director” means a person appointed by the Central Government as a Regional Director for the purposes of this Act.

(3) (a) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be.

(b) Where any offence is compounded under this section, whether before or after the institution of any prosecution, an intimation thereof shall be given by the company to the Registrar within seven days from the date on which the offence is so compounded.

(c) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, either by the Registrar or by any shareholder of the company or by any person authorised by the Central Government against the offender in relation to whom the offence is so compounded.

(d) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which the prosecution is pending and on such notice of the compounding of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged.

(4) The Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires a company or its officer to file or register with, or deliver or send to, the Registrar any return, account or other document, may direct, by an order, if it or he thinks fit to do so, any officer or other employee of the company to file or register with, or on payment of the fee, and the additional fee, required to be paid under section 403, such return, account or other document within such time as may be specified in the order.

(5) Any officer or other employee of the company who fails to comply with any order made by the Tribunal or the Regional Director or any officer authorised by the Central Government under sub-section (4) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one lakh rupees, or with both.

2 of 1974.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

(a) any offence which is punishable under this Act, with imprisonment or fine, or with imprisonment or fine or with both, shall be compoundable with the permission of the Special Court, in accordance with the procedure laid down in that Act for compounding of offences;

(b) any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.

(7) No offence specified in this section shall be compounded except under and in accordance with the provisions of this section.

Mediation and
Conciliation
Panel.

442. (1) The Central Government shall maintain a panel of experts to be called as the Mediation and Conciliation Panel consisting of such number of experts having such qualifications as may be prescribed for mediation between the parties during the pendency of any proceedings before the Central Government or the Tribunal or the Appellate Tribunal under this Act.

(2) Any of the parties to the proceedings may, at any time during the proceedings before the Central Government or the Tribunal or the Appellate Tribunal, apply to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, in such form along with such fees as may be prescribed, for referring the matter pertaining to such proceedings to the Mediation and Conciliation Panel and the Central Government or Tribunal or the Appellate Tribunal, as the case may be, shall appoint one or more experts from the panel referred to in sub-section (1).

(3) The Central Government or the Tribunal or the Appellate Tribunal before which any proceeding is pending may, *suo motu*, refer any matter pertaining to such proceeding to such number of experts from the Mediation and Conciliation Panel as the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, deems fit.

(4) The fee and other terms and conditions of experts of the Mediation and Conciliation Panel shall be such as may be prescribed.

(5) The Mediation and Conciliation Panel shall follow such procedure as may be prescribed and dispose of the matter referred to it within a period of three months from the date of such reference and forward its recommendations to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

(6) Any party aggrieved by the recommendation of the Mediation and Conciliation Panel may file objections to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

Power of
Central
Government
to appoint
company
prosecutors.

443. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Central Government may appoint generally, or for any case, or in any case, or for any specified class of cases in any local area, one or more persons, as company prosecutors for the conduct of prosecutions arising out of this Act and the persons so appointed as company prosecutors shall have all the powers and privileges conferred by the Code on Public Prosecutors appointed under section 24 of the Code.

2 of 1974.

Appeal
against
acquittal.

444. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Central Government may, in any case arising under this Act, direct any company prosecutor or authorise any other person either by name or by virtue of his office, to present an appeal from an order of acquittal passed by any court, other than a High Court, and an appeal presented by such prosecutor or other person shall be deemed to have been validly presented to the appellate court.

2 of 1974.

Compensation
for accusation
without
reasonable
cause.

445. The provisions of section 250 of the Code of Criminal Procedure, 1973 shall apply *mutatis mutandis* to compensation for accusation without reasonable cause before the Special Court or the Court of Session.

2 of 1974.

Application
of fines.

446. The court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the payment of a reward to the person on whose information the proceedings were instituted.

CHAPTER XXIX

MISCELLANEOUS

Punishment
for fraud.

447. Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

Explanation.—For the purposes of this section—

(i) “fraud” in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

(ii) “wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;

(iii) “wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.

448. Save as otherwise provided in this Act, if in any return, report, certificate, financial statement, prospectus, statement or other document required by, or for, the purposes of any of the provisions of this Act or the rules made thereunder, any person makes a statement,—

Punishment
for false
statement.

(a) which is false in any material particulars, knowing it to be false; or

(b) which omits any material fact, knowing it to be material,

he shall be liable under section 447.

449. Save as otherwise provided in this Act, if any person intentionally gives false evidence—

Punishment
for false
evidence.

(a) upon any examination on oath or solemn affirmation, authorised under this Act; or

(b) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to ten lakh rupees.

450. If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to ten thousand rupees, and where the contravention is continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

Punishment
where no
specific
penalty or
punishment is
provided.

451. If a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, that company and every officer thereof who is in default shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence.

Punishment
in case of
repeated
default.

452. (1) If any officer or employee of a company—

Punishment
for wrongful
withholding
of property.

(a) wrongfully obtains possession of any property, including cash of the company; or

(b) having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorised by this Act,

he shall, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(2) The Court trying an offence under sub-section (1) may also order such officer or employee to deliver up or refund, within a time to be fixed by it, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.

Punishment
for improper
use of
"Limited" or
"Private
Limited".

453. If any person or persons trade or carry on business under any name or title, of which the word "Limited" or the words "Private Limited" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated with limited liability, or unless duly incorporated as a private company with limited liability, as the case may be, punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees for every day for which that name or title has been used.

Adjudication
of penalties.

454. (1) The Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.

(2) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).

(3) The adjudicating officer may, by an order impose the penalty on the company and the officer who is in default stating any non-compliance or default under the relevant provision of the Act.

(4) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such company and the officer who is in default.

(5) Any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(6) Every appeal under sub-section (5) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

(7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8) (i) Where company does not pay the penalty imposed by the adjudicating officer or the Regional Director within a period of ninety days from the date of the receipt of the copy of the order, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

(ii) Where an officer of a company who is in default does not pay the penalty within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Dormant
company.

455. (1) Where a company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of a dormant company.

Explanation.—For the purposes of this section,—

(i) “inactive company” means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years;

(ii) “significant accounting transaction” means any transaction other than—

- (a) payment of fees by a company to the Registrar;
- (b) payments made by it to fulfil the requirements of this Act or any other law;
- (c) allotment of shares to fulfil the requirements of this Act; and
- (d) payments for maintenance of its office and records.

(2) The Registrar on consideration of the application shall allow the status of a dormant company to the applicant and issue a certificate in such form as may be prescribed to that effect.

(3) The Registrar shall maintain a register of dormant companies in such form as may be prescribed.

(4) In case of a company which has not filed financial statements or annual returns for two financial years consecutively, the Registrar shall issue a notice to that company and enter the name of such company in the register maintained for dormant companies.

(5) A dormant company shall have such minimum number of directors, file such documents and pay such annual fee as may be prescribed to the Registrar to retain its dormant status in the register and may become an active company on an application made in this behalf accompanied by such documents and fee as may be prescribed.

(6) The Registrar shall strike off the name of a dormant company from the register of dormant companies, which has failed to comply with the requirements of this section.

456. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder, or in respect of the publication by or under the authority of the Government or such officer, of any report, paper or proceedings.

Protection of action taken in good faith.

457. Notwithstanding anything contained in any other law for the time being in force, the Registrar, any officer of the Government or any other person shall not be compelled to disclose to any court, Tribunal or other authority, the source from where he got any information which—

Non-disclosure of information in certain cases.

(a) has led the Central Government to order an investigation under section 210;

or

(b) is or has been material or relevant in connection with such investigation.

458. (1) The Central Government may, by notification, and subject to such conditions, limitations and restrictions as may be specified therein, delegate any of its powers or functions under this Act other than the power to make rules to such authority or officer as may be specified in the notification:

Delegation by Central Government of its powers and functions.

Provided that the powers to enforce the provisions contained in section 194 and section 195 relating to forward dealing and insider trading shall be delegated to Securities and Exchange Board for listed companies or the companies which intend to get their securities listed and in such case, any officer authorised by the Securities and Exchange Board shall have the power to file a complaint in the court of competent jurisdiction.

(2) A copy of every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

Powers of Central Government or Tribunal to accord approval, etc., subject to conditions and to prescribe fees on applications.

459. (1) Where the Central Government or the Tribunal is required or authorised by any provision of this Act—

(a) to accord approval, sanction, consent, confirmation or recognition to, or in relation to, any matter; or

(b) to give any direction in relation to any matter; or

(c) to grant any exemption in relation to any matter,

then, the Central Government or the Tribunal may in the absence of anything to the contrary contained in that provision or any other provision of this Act, accord, give or grant such approval, sanction, consent, confirmation, recognition, direction or exemption, subject to such conditions, limitations or restrictions as it may think fit to impose and may, in the case of a contravention of any such condition, limitation or restriction, rescind or withdraw such approval, sanction, consent, confirmation, recognition, direction or exemption.

(2) Save as otherwise provided in this Act, every application which may be, or is required to be, made to the Central Government or the Tribunal under any provision of this Act—

(a) in respect of any approval, sanction, consent, confirmation or recognition to be accorded by that Government or the Tribunal to, or in relation to, any matter; or

(b) in respect of any direction or exemption to be given or granted by that Government or the Tribunal in relation to any matter; or

(c) in respect of any other matter,

shall be accompanied by such fees as may be prescribed:

Provided that different fees may be prescribed for applications in respect of different matters or in case of applications by different classes of companies.

Condonation of delay in certain cases.

460. Notwithstanding anything contained in this Act,—

(a) where any application required to be made to the Central Government under any provision of this Act in respect of any matter is not made within the time specified therein, that Government may, for reasons to be recorded in writing, condone the delay; and

(b) where any document required to be filed with the Registrar under any provision of this Act is not filed within the time specified therein, the Central Government may, for reasons to be recorded in writing, condone the delay.

Annual report by Central Government.

461. The Central Government shall cause a general annual report on the working and administration of this Act to be prepared and laid before each House of Parliament within one year of the close of the year to which the report relates.

Power to exempt class or classes of companies from provisions of this Act.

462. (1) The Central Government may in the public interest, by notification direct that any of the provisions of this Act,—

(a) shall not apply to such class or classes of companies; or

(b) shall apply to the class or classes of companies with such exceptions, modifications and adaptations as may be specified in the notification.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

463. (1) If in any proceeding for negligence, default, breach of duty, misfeasance or breach of trust against an officer of a company, it appears to the court hearing the case that he is or may be liable in respect of the negligence, default, breach of duty, misfeasance or breach of trust, but that he has acted honestly and reasonably, and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused, the court may relieve him, either wholly or partly, from his liability on such term, as it may think fit:

Power of court to grant relief in certain cases.

Provided that in a criminal proceeding under this sub-section, the court shall have no power to grant relief from any civil liability which may attach to an officer in respect of such negligence, default, breach of duty, misfeasance or breach of trust.

(2) Where any such officer has reason to apprehend that any proceeding will or might be brought against him in respect of any negligence, default, breach of duty, misfeasance or breach of trust, he may apply to the High Court for relief and the High Court on such application shall have the same power to relieve him as it would have had if it had been a court before which a proceedings against that officer for negligence, default, breach of duty, misfeasance or breach of trust had been brought under sub-section (1).

(3) No court shall grant any relief to any officer under sub-section (1) or sub-section (2) unless it has, by notice served in the manner specified by it, required the Registrar and such other person, if any, as it thinks necessary, to show cause why such relief should not be granted.

464. (1) No association or partnership consisting of more than such number of persons as may be prescribed shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the association or partnership or by the individual members thereof, unless it is registered as a company under this Act or is formed under any other law for the time being in force:

Prohibition of association or partnership of persons exceeding certain number.

Provided that the number of persons which may be prescribed under this sub-section shall not exceed one hundred.

(2) Nothing in sub-section (1) shall apply to—

(a) a Hindu undivided family carrying on any business; or

(b) an association or partnership, if it is formed by professionals who are governed by special Acts.

(3) Every member of an association or partnership carrying on business in contravention of sub-section (1) shall be punishable with fine which may extend to one lakh rupees and shall also be personally liable for all liabilities incurred in such business.

465. (1) The Companies Act, 1956 and the Registration of Companies (Sikkim) Act, 1961 (hereafter in this section referred to as the repealed enactments) shall stand repealed:

Repeal of certain enactments and savings.

Provided that the provisions of Part IX A of the Companies Act, 1956 shall be applicable *mutatis mutandis* to a Producer Company in a manner as if the Companies Act, 1956 has not been repealed until a special Act is enacted for Producer Companies:

Provided further that until a date is notified by the Central Government under sub-section (1) of Section 434 for transfer of all matters, proceedings or cases to the Tribunal, the provisions of the Companies Act, 1956 in regard to the jurisdiction, powers, authority and functions of the Board of Company Law Administration and court shall continue to apply as if the Companies Act, 1956 has not been repealed:

Provided also that provisions of the Companies Act, 1956 referred in the notification issued under section 67 of the Limited Liability Partnership Act, 2008 shall, until the relevant notification under such section applying relevant corresponding provisions of this Act to limited liability partnerships is issued, continue to apply as if the Companies Act, 1956 has not been repealed.

1 of 1956.
Sikkim Act
8 of 1961.
1 of 1956.

1 of 1956.

1 of 1956.
6 of 2009.

(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments,—

(a) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) subject to the provisions of clause (a), any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act;

(c) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(d) any person appointed to any office under or by virtue of any repealed enactment shall be deemed to have been appointed to that office under or by virtue of this Act;

(e) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;

(f) the offices existing on the commencement of this Act for the registration of companies shall continue as if they have been established under the provisions of this Act;

(g) the incorporation of companies registered under the repealed enactments shall continue to be valid and the provisions of this Act shall apply to such companies as if they were registered under this Act;

(h) all registers and all funds constituted and established under the repealed enactments shall be deemed to be registers and funds constituted or established under the corresponding provisions of this Act;

(i) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed of by the said Court;

(j) any inspection, investigation or inquiry ordered to be done under the Companies Act, 1956 shall continue to be proceeded with as if such inspection, investigation or inquiry has been ordered under the corresponding provisions of this Act; and

1 of 1956.

(k) any matter filed with the Registrar, Regional Director or the Central Government under the Companies Act, 1956 before the commencement of this Act and not fully addressed at that time shall be concluded by the Registrar, Regional Director or the Central Government, as the case may be, in terms of that Act, despite its repeal.

1 of 1956.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the repealed enactments as if the Registration of Companies (Sikkim) Act, 1961 were also a Central Act.

10 of 1897,
Sikkim Act 8
of 1961.

1 of 1956.

466. (1) Notwithstanding anything contained in section 465, the Board of Company Law Administration constituted under the Companies Act, 1956 (hereafter in this section referred to as the Company Law Board) shall stand dissolved on the constitution of the Tribunal and the Appellate Tribunal:

Dissolution
of Company
Law Board
and
consequential
provisions.

Provided that until the Tribunal and the Appellate Tribunal is constituted, the Chairman, Vice-Chairman and Members of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal, who fulfil the qualifications and requirements provided under this Act regarding appointment as President or Chairperson or Member of the Tribunal or the Appellate Tribunal, shall function as President, Chairperson or Member of the Tribunal or the Appellate Tribunal:

Provided further that every officer or other employee, who had been appointed on deputation basis to the Company Law Board, shall, on such dissolution,—

(i) become officer or employee of the Tribunal or the Appellate Tribunal, if he fulfils the qualifications and requirements under this Act; and

(ii) stand reverted to his parent cadre, Ministry or Department, in any other case:

Provided also that every officer and the other employee of the Company Law Board, employed on regular basis by that Board, shall become, on and from such dissolution the officer and other employee, respectively, of the Tribunal or the Appellate Tribunal with the same rights and privileges as to pension, gratuity and other like benefits as would have been admissible to him if he had continued to serve that Board and shall continue to do so unless and until his employment in the Tribunal or the Appellate Tribunal is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Tribunal or the Appellate Tribunal, as the case may be:

14 of 1947.

Provided also that notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, any officer or other employee who becomes an officer or other employee of the Tribunal or the Appellate Tribunal under the preceding proviso shall not be entitled to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority:

Provided also that where the Company Law Board has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the officers and other employees employed in that Board, the monies relatable to the officers and other employees who have become officers or employees of the Tribunal or the Appellate Tribunal shall, out of the monies standing to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vest in, the Tribunal or the Appellate Tribunal, as the case may be, and such monies which stand so transferred shall be dealt with by the Tribunal or the Appellate Tribunal in such manner as may be prescribed.

(2) The persons holding the offices of Chairman, Vice-Chairman and Members, and officers and other employees of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal who are not covered under proviso to sub-section (1) shall vacate their respective offices on such constitution and no such Chairman, Vice-Chairman and Members and officers or other employees shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service, if any.

467. (1) Subject to the provisions of this section, the Central Government may, by notification, alter any of the regulations, rules, Tables, forms and other provisions contained in any of the Schedules to this Act.

Power of
Central
Government
to amend
Schedules.

(2) Any alteration notified under sub-section (1) shall have effect as if enacted in this Act and shall come into force on the date of the notification, unless the notification otherwise directs:

Provided that no such alteration in Table F of Schedule I shall apply to any company registered before the date of such alteration.

(3) Every alteration made by the Central Government under sub-section (1) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration.

Powers of
Central
Government
to make rules
relating to
winding up.

468. (1) The Central Government shall, make rules consistent with the Code of Civil Procedure, 1908 providing for all matters relating to the winding up of companies, which by this Act, are to be prescribed, and may make rules providing for all such matters, as may be prescribed.

5 of 1908.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) as to the mode of proceedings to be held for winding up of a company by the Tribunal;

(ii) for the voluntary winding up of companies, whether by members or by creditors;

(iii) for the holding of meetings of creditors and members in connection with proceedings under section 230;

(iv) for giving effect to the provisions of this Act as to the reduction of the capital;

(v) generally for all applications to be made to the Tribunal under the provisions of this Act;

(vi) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;

(vii) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;

(viii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;

(ix) the making of calls; and

(x) the fixing of a time within which debts and claims shall be proved.

(3) All rules made by the Supreme Court on the matters referred to in this section as it stood immediately before the commencement of this Act and in force at such commencement, shall continue to be in force, till such time the rules are made by the Central Government and any reference to the High Court in relation to winding up of a company in such rules shall be construed as a reference to the Tribunal.

Power of
Central
Government
to make
rules.

469. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provision is to be or may be made by rules.

(3) Any rule made under sub-section (1) may provide that a contravention thereof shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which such contravention continues.

(4) Every rule made under this section and every regulation made by Securities and Exchange Board under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

470. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of section 1 of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SCHEDULE I

(See sections 4 and 5)

TABLE-A

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

- 1st The name of the company is ".....Limited / Private Limited".
- 2nd The registered office of the company will be situated in the State of.....
- 3rd (a) The objects to be pursued by the company on its incorporation are:—
- (b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—
- 4th The liability of the member(s) is limited and this liability is limited to the amount unpaid, if any, on the shares held by them.
- 5th The share capital of the company is.....rupees, divided into.....shares of.....rupees each.
- 6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....
Total shares taken:		

- 7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.Merchant		Signed before me: Signature.....
8th Shri/Smt....., son/daughter of, resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)		
Dated..... the day of		

TABLE-B

**MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY
GUARANTEE AND NOT HAVING A SHARE CAPITAL**

- 1st The name of the company is ".....Limited/Private Limited".
- 2nd The registered office of the company will be situated in the State of.....
- 3rd (a) The objects to be pursued by the company on its incorporation are:—
(b) Matters which are necessary for furtherance of the objects specified in clause 3(a)
are:—
- 4th The liability of the member(s) is limited.
- 5th Every member of the company undertakes to contribute:
(i) to the assets of the company in the event of its being wound up while he is a
member, or within one year after he ceases to be a member, for payment of the debts
and liabilities of the company or of such debts and liabilities as may have been
contracted before he ceases to be a member; and
(ii) to the costs, charges and expenses of winding up (and for the adjustment of the
rights of the contributories among themselves),
such amount as may be required, not exceeding.....rupees.
- 6th We, the several persons, whose names and addresses are subscribed, are desirous of
being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):---

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.Merchant		Signed before me: Signature.....

8th Shri/Smt....., son/daughter of....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of

TABLE-C

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1st The name of the company is ".....Limited/Private Limited".

2nd The registered office of the company will be situated in the State of.....

3rd (a) The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(i) to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member; and

(ii) to the costs, charges and expenses of winding up (and for the adjustment of the rights of the contributories among themselves),

such amount as may be required, not exceeding.....rupees.

6th The share capital of the company is.....rupees, divided into.....shares of.....rupees each

7th We, the several persons, whose names, addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

8th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B. of.....Merchant		Signed before me: Signature.....

9th Shri/Smt....., son/daughter of....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

TABLE-D

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND NOT HAVING SHARE CAPITAL

- 1st The name of the company is “.....Company”.
- 2nd The registered office of the company will be situated in the State of.....
- 3rd (a) The objects to be pursued by the company on its incorporation are:—
(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—
- 4th The liability of the member(s) is unlimited.
- 5th We, the several persons, whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

6th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.Merchant		Signed before me: Signature.....

7th Shri/Smt....., son/daughter of....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

TABLE-E

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING SHARE CAPITAL

- 1st The name of the company is ".....Company".
- 2nd The registered office of the company will be situated in the State of.....
- 3rd (a) The objects to be pursued by the company on its incorporation are:—
(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—
- 4th The liability of the member(s) is unlimited.
- 5th The share capital of the company is.....rupees, divided into.....shares of.....rupees each.
- 6th We, the several persons, whose names, and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we

respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.Merchant		Signed before me: Signature.....

8th Shri/Smt....., son/daughter of....., resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of

TABLE-F

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

Interpretation

I. (1) In these regulations—

(a) “the Act” means the Companies Act, 2013,

(b) “the seal” means the common seal of the company.

(2) Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Share capital and variation of rights

II. 1. Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.

2. (i) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,---

(a) one certificate for all his shares without payment of any charges; or

(b) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first.

(ii) Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid-up thereon.

(iii) In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

3. (i) If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate.

(ii) The provisions of Articles (2) and (3) shall *mutatis mutandis* apply to debentures of the company.

4. Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

5. (i) The company may exercise the powers of paying commissions conferred by sub-section (6) of section 40, provided that the rate per cent. or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder.

(ii) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40.

(iii) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.

6. (i) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class.

(ii) To every such separate meeting, the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question.

7. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

8. Subject to the provisions of section 55, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the company before the issue of the shares may, by special resolution, determine.

Lien

9. (i) The company shall have a first and paramount lien—

(a) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and

(b) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company:

Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause.

(ii) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.

10. The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien:

Provided that no sale shall be made—

(a) unless a sum in respect of which the lien exists is presently payable; or

(b) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.

11. (i) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof.

(ii) The purchaser shall be registered as the holder of the shares comprised in any such transfer.

(iii) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

12. (i) The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable.

(ii) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.

Calls on shares

13. (i) The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times:

Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call.

(ii) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares.

(iii) A call may be revoked or postponed at the discretion of the Board.

14. A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed and may be required to be paid by instalments.

15. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

16. (i) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at ten per cent. per annum or at such lower rate, if any, as the Board may determine.

(ii) The Board shall be at liberty to waive payment of any such interest wholly or in part.

17. (i) Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable.

(ii) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

18. The Board—

(a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and

(b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, unless the company in general meeting shall otherwise direct, twelve per cent. per annum, as may be agreed upon between the Board and the member paying the sum in advance.

Transfer of shares

19. (i) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee.

(ii) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

20. The Board may, subject to the right of appeal conferred by section 58 decline to register—

(a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or

(b) any transfer of shares on which the company has a lien.

21. The Board may decline to recognise any instrument of transfer unless—

(a) the instrument of transfer is in the form as prescribed in rules made under sub-section (1) of section 56;

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and

(c) the instrument of transfer is in respect of only one class of shares.

22. On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine:

Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.

Transmission of shares

23. (i) On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares.

(ii) Nothing in clause (i) shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

24. (i) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either—

(a) to be registered himself as holder of the share; or

(b) to make such transfer of the share as the deceased or insolvent member could have made.

(ii) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.

25. (i) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects.

(ii) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share.

(iii) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.

26. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.

27. In case of a One Person Company—

(i) on the death of the sole member, the person nominated by such member shall be the person recognised by the company as having title to all the shares of the member;

(ii) the nominee on becoming entitled to such shares in case of the member's death shall be informed of such event by the Board of the company;

(iii) such nominee shall be entitled to the same dividends and other rights and liabilities to which such sole member of the company was entitled or liable;

(iv) on becoming member, such nominee shall nominate any other person with the prior written consent of such person who, shall in the event of the death of the member, become the member of the company.

Forfeiture of shares

28. If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

29. The notice aforesaid shall—

(a) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and

(b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.

30. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.

31. (i) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit.

(ii) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.

32. (i) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares.

(ii) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.

33. (i) A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share;

(ii) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of;

(iii) The transferee shall thereupon be registered as the holder of the share; and

(iv) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

34. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Alteration of capital

35. The company may, from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.

36. Subject to the provisions of section 61, the company may, by ordinary resolution,—

(a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(b) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;

(c) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum;

(d) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

37. Where shares are converted into stock,—

(a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit:

Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose.

(b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

(c) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.

38. The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,—

(a) its share capital;

(b) any capital redemption reserve account; or

(c) any share premium account.

Capitalisation of profits

39. (i) The company in general meeting may, upon the recommendation of the Board, resolve—

(a) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the profit and loss account, or otherwise available for distribution; and

(b) that such sum be accordingly set free for distribution in the manner specified in clause (ii) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.

(ii) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (iii), either in or towards—

(A) paying up any amounts for the time being unpaid on any shares held by such members respectively;

(B) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid;

(C) partly in the way specified in sub-clause (A) and partly in that specified in sub-clause (B);

(D) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares;

(E) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.

40. (i) Whenever such a resolution as aforesaid shall have been passed, the Board shall—

(a) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and

(b) generally do all acts and things required to give effect thereto.

(ii) The Board shall have power—

(a) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and

(b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares;

(iii) Any agreement made under such authority shall be effective and binding on such members.

Buy-back of shares

41. Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.

General meetings

42. All general meetings other than annual general meeting shall be called extraordinary general meeting.

43. (i) The Board may, whenever it thinks fit, call an extraordinary general meeting.

(ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

44. (i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

45. The chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

46. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

47. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

48. In case of a One Person Company—

(i) the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under section 118;

(ii) such minutes book shall be signed and dated by the member;

(iii) the resolution shall become effective from the date of signing such minutes by the sole member.

Adjournment of meeting

49. (i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

50. Subject to any rights or restrictions for the time being attached to any class or classes of shares,—

(a) on a show of hands, every member present in person shall have one vote; and

(b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.

51. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

52. (i) In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders.

(ii) For this purpose, seniority shall be determined by the order in which the names stand in the register of members.

53. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

54. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

55. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

56. (i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

Proxy

57. The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid.

58. An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105.

59. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

Board of Directors

60. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

61. (i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(b) in connection with the business of the company.

62. The Board may pay all expenses incurred in getting up and registering the company.

63. The company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may think fit respecting the keeping of any such register.

64. All cheques, promissory notes, drafts, *hundis*, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine.

65. Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.

66. (i) Subject to the provisions of section 149, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the number of the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the articles.

(ii) Such person shall hold office only up to the date of the next annual general meeting of the company but shall be eligible for appointment by the company as a director at that meeting subject to the provisions of the Act.

Proceedings of the Board

67. (i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

68. (i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

69. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

70. (i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be Chairperson of the meeting.

71. (i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

72. (i) A committee may elect a Chairperson of its meetings.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

73. (i) A committee may meet and adjourn as it thinks fit.

(ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairperson shall have a second or casting vote.

74. All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

75. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

76. In case of a One Person Company—

(i) where the company is having only one director, all the businesses to be transacted at the meeting of the Board shall be entered into minutes book maintained under section 118;

- (ii) such minutes book shall be signed and dated by the director;
- (iii) the resolution shall become effective from the date of signing such minutes by the director.

Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer

77. Subject to the provisions of the Act,—

(i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may think fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board;

(ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

78. A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

79. (i) The Board shall provide for the safe custody of the seal.

(ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Dividends and Reserve

80. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.

81. Subject to the provisions of section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company.

82. (i) The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied, including provision for meeting contingencies or for equalising dividends; and pending such application, may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the Board may, from time to time, think fit.

(ii) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve.

83. (i) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares.

(ii) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share.

(iii) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

84. The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.

85. (i) Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct.

(ii) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.

86. Any one of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share.

87. Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.

88. No dividend shall bear interest against the company.

Accounts

89. (i) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors.

(ii) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.

Winding up

90. Subject to the provisions of Chapter XX of the Act and rules made thereunder—

(i) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not.

(ii) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.

(iii) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity

91. Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal.

Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address,

description and occupation, if any, and such signatures shall be in form specified below:

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
A.B. of.....Merchant	Signed before me Signature.....
C.D. of.....Merchant	Signed before me Signature.....
E.F. of.....Merchant	Signed before me Signature.....
G.H. of.....Merchant	Signed before me Signature.....
I.J. of.....Merchant	Signed before me Signature.....
K.L. of.....Merchant	Signed before me Signature.....
M.N. of.....Merchant	Signed before me Signature.....

Dated the.....day of.....20.....

Place:

TABLE-G

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.
2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE-H

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING SHARE CAPITAL

Interpretation

I. (1) In these regulations—

- (a) “the Act” means the Companies Act, 2013;
- (b) “the seal” means the common seal of the company.

(2) Unless the context otherwise requires, words or expressions contained in these regulations shall have the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Members

- II. 1.** The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.

2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.

General meetings

3. All general meetings other than annual general meeting shall be called extraordinary general meeting.

4. (i) The Board may, whenever it thinks fit, call an extraordinary general meeting.

(ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

5. (i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

6. The Chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

7. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

8. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

Adjournment of meeting

9. (i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

10. Every member shall have one vote.

11. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

12. No member shall be entitled to vote at any general meeting unless all sums presently payable by him to the company have been paid.

13. (i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

14. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

15. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

16. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

Board of Directors

17. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

18. (i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(b) in connection with the business of the company.

Proceedings of the Board

19. (i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

20. (i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

21. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

22. (i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(ii) If no such chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their members to be Chairperson of the meeting.

23. (i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

24. (i) A committee may elect a Chairperson of its meetings.

(ii) If no such Chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

25. (i) A committee may meet and adjourn as it thinks proper.

(ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.

26. All acts done by any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

27. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be as valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

***Chief Executive Officer, Manager, Company Secretary or
Chief Financial Officer***

28. Subject to the provisions of the Act,—

(i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board.

(ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

29. A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

30. (i) The Board shall provide for the safe custody of the seal.

(ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address,

description and occupation, if any, and such signatures shall be in form specified below:

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
A.B. of.....Merchant	Signed before me Signature.....
C.D. of.....Merchant	Signed before me Signature.....
E.F. of.....Merchant	Signed before me Signature.....
G.H. of.....Merchant	Signed before me Signature.....
I.J. of.....Merchant	Signed before me Signature.....
K.L. of.....Merchant	Signed before me Signature.....
M.N. of.....Merchant	Signed before me Signature.....

Dated the.....day of20.....

Place:

TABLE -I

ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.
2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE -J

ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND NOT HAVING SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.
2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.
3. All the articles of Table H in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

SCHEDULE II

(See section 123)

USEFUL LIVES TO COMPUTE DEPRECIATION

PART 'A'

1. Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life. The depreciable amount of an asset is the cost of an asset or other amount substituted for cost, less its residual value. The useful life of an asset is the period over which an asset is expected to be available for use by an entity, or the number of production or similar units expected to be obtained from the asset by the entity.

2. For the purpose of this Schedule, the term depreciation includes amortisation.

3. Without prejudice to the foregoing provisions of paragraph 1,—

(i) In case of such class of companies, as may be prescribed and whose financial statements comply with the accounting standards prescribed for such class of companies under section 133 the useful life of an asset shall not normally be different from the useful life and the residual value shall not be different from that as indicated in Part C, provided that if such a company uses a useful life or residual value which is different from the useful life or residual value indicated therein, it shall disclose the justification for the same.

(ii) In respect of other companies the useful life of an asset shall not be longer than the useful life and the residual value shall not be higher than that prescribed in Part C.

(iii) For intangible assets, the provisions of the Accounting Standards mentioned under sub-para (i) or (ii), as applicable, shall apply.

PART 'B'

4. The useful life or residual value of any specific asset, as notified for accounting purposes by a Regulatory Authority constituted under an Act of Parliament or by the Central Government shall be applied in calculating the depreciation to be provided for such asset irrespective of the requirements of this Schedule.

PART 'C'

5. Subject to Parts A and B above, the following are the useful lives of various tangible assets:

Nature of assets	Useful Life
I. Buildings [NESD]	
(a) Buildings (other than factory buildings) RCC Frame Structure	60 Years
(b) Buildings (other than factory buildings) other than RCC Frame Structure	30 Years
(c) Factory buildings	-do-
(d) Fences, wells, tube wells	5 Years
(e) Others (including temporary structure, etc.)	3 Years
II. Bridges, culverts, bunders, etc. [NESD]	30 Years
III. Roads [NESD]	
(a) Carpeted roads	
(i) Carpeted Roads-RCC	10 Years
(ii) Carpeted Roads-other than RCC	5 Years

(b) Non-carpeted roads	3 Years
IV. Plant and Machinery	
(i) General rate applicable to plant and machinery not covered under special plant and machinery	
(a) Plant and Machinery other than continuous process plant not covered under specific industries	15 Years
(b) continuous process plant for which no special rate has been prescribed under (ii) below [NESD]	8 Years
(ii) Special Plant and Machinery	
(a) Plant and Machinery related to production and exhibition of Motion Picture Films	
1. Cinematograph films—Machinery used in the production and exhibition of cinematograph films, recording and reproducing equipments, developing machines, printing machines, editing machines, synchronizers and studio lights except bulbs	13 Years
2. Projecting equipment for exhibition of films	-do-
(b) Plant and Machinery used in glass manufacturing	
1. Plant and Machinery except direct fire glass melting furnaces — Recuperative and regenerative glass melting furnaces	13 Years
2. Plant and Machinery except direct fire glass melting furnaces — Moulds [NESD]	8 Years
3. Float Glass Melting Furnaces [NESD]	10 Years
(c) Plant and Machinery used in mines and quarries—Portable underground machinery and earth moving machinery used in open cast mining [NESD]	8 Years
(d) Plant and Machinery used in Telecommunications [NESD]	
1. Towers	18 Years
2. Telecom transceivers, switching centres, transmission and other network equipment	13 Years
3. Telecom—Ducts, Cables and optical fibre	18 Years
4. Satellites	-do-
(e) Plant and Machinery used in exploration, production and refining oil and gas [NESD]	
1. Refineries	25 Years
2. Oil and gas assets (including wells), processing plant and facilities	-do-
3. Petrochemical Plant	-do-
4. Storage tanks and related equipment	-do-
5. Pipelines	30 Years
6. Drilling Rig	-do-
7. Field operations (above ground) Portable boilers, drilling tools, well-head tanks, etc.	8 Years
8. Loggers	-do-

(f) Plant and Machinery used in generation, transmission and distribution of power [NESD]	
1. Thermal/ Gas/ Combined Cycle Power Generation Plant	40 Years
2. Hydro Power Generation Plant	-do-
3. Nuclear Power Generation Plant	-do-
4. Transmission lines, cables and other network assets	-do-
5. Wind Power Generation Plant	22 Years
6. Electric Distribution Plant	35 Years
7. Gas Storage and Distribution Plant	30 Years
8. Water Distribution Plant including pipelines	-do-
(g) Plant and Machinery used in manufacture of steel	
1. Sinter Plant	20 Years
2. Blast Furnace	-do-
3. Coke ovens	-do-
4. Rolling mill in steel plant	-do-
5. Basic oxygen Furnace Converter	25 Years
(h) Plant and Machinery used in manufacture of non-ferrous metals	
1. Metal pot line [NESD]	40 Years
2. Bauxite crushing and grinding section [NESD]	-do-
3. Digester Section [NESD]	-do-
4. Turbine [NESD]	-do-
5. Equipments for Calcination [NESD]	-do-
6. Copper Smelter [NESD]	-do-
7. Roll Grinder	40 Years
8. Soaking Pit	30 Years
9. Annealing Furnace	-do-
10. Rolling Mills	-do-
11. Equipments for Scalping, Slitting, etc. [NESD]	-do-
12. Surface Miner, Ripper Dozer, etc., used in mines	25 Years
13. Copper refining plant [NESD]	-do-
(i) Plant and Machinery used in medical and surgical operations [NESD]	
1. Electrical Machinery, X-ray and electrotherapeutic apparatus and accessories thereto, medical, diagnostic equipments, namely, Cat-scan, Ultrasound Machines, ECG Monitors, etc.	13 Years
2. Other Equipments.	15 Years
(j) Plant and Machinery used in manufacture of pharmaceuticals and chemicals [NESD]	
1. Reactors	20 Years
2. Distillation Columns	-do-
3. Drying equipments/Centrifuges and Decanters	-do-
4. Vessel/storage tanks	-do-

(k) Plant and Machinery used in civil construction	
1. Concreting, Crushing, Piling Equipments and Road Making Equipments	12 Years.
2. Heavy Lift Equipments—	
Cranes with capacity of more than 100 tons	20 Years
Cranes with capacity of less than 100 tons	15 Years
3. Transmission line, Tunneling Equipments [NESD]	10 Years
4. Earth-moving equipments	9 Years
5. Others including Material Handling /Pipeline/Welding Equipments [NESD]	12 Years
(l) Plant and Machinery used in salt works [NESD]	15 Years
V. Furniture and fittings [NESD]	
(i) General furniture and fittings	10 Years
(ii) Furniture and fittings used in hotels, restaurants and boarding houses, schools, colleges and other educational institutions, libraries; welfare centres; meeting halls, cinema houses; theatres and circuses; and furniture and fittings let out on hire for use on the occasion of marriages and similar functions.	8 Years
VI Motor Vehicles [NESD]	
1. Motor cycles, scooters and other mopeds	10 Years
2. Motor buses, motor lorries, motor cars and motor taxies used in a business of running them on hire	6 Years
3. Motor buses, motor lorries and motor cars other than those used in a business of running them on hire	8 Years
4. Motor tractors, harvesting combines and heavy vehicles	-do-
5. Electrically operated vehicles including battery powered or fuel cell powered vehicles	8 Years
VII Ships [NESD]	
1. Ocean-going ships	
(i) Bulk Carriers and liner vessels	25 Years
(ii) Crude tankers, product carriers and easy chemical carriers with or without conventional tank coatings.	20 Years
(iii) Chemicals and Acid Carriers:	
(a) With Stainless steel tanks	25 Years
(b) With other tanks	20 Years
(iv) Liquified gas carriers	30 Years
(v) Conventional large passenger vessels which are used for cruise purpose also	-do-
(vi) Coastal service ships of all categories	-do-
(vii) Offshore supply and support vessels	20 Years
(viii) Catamarans and other high speed passenger for ships or boats	-do-

(ix) Drill ships	25 Years
(x) Hovercrafts	15 Years
(xi) Fishing vessels with wooden hull	10 Years
(xii) Dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes	14 Years
2. Vessels ordinarily operating on inland waters—	
(i) Speed boats	13 Years
(ii) Other vessels	28 Years
VIII. Aircrafts or Helicopters [NESD]	20 Years
IX. Railways sidings, locomotives, rolling stocks, tramways and railways used by concerns, excluding railway concerns [NESD]	15 Years
X. Ropeway structures [NESD]	15 Years
XL Office equipment [NESD]	5 Years
XII. Computers and data processing units [NESD]	
(i) Servers and networks	6 Years
(ii) End user devices, such as, desktops, laptops, etc.	3 Years
XIII. Laboratory equipment [NESD]	
(i) General laboratory equipment	10 Years
(ii) Laboratory equipments used in educational institutions	5 Years
XIV. Electrical Installations and Equipment [NESD]	10 years
XV. Hydraulic works, pipelines and sluices [NESD]	15 Years

Notes.—

1. "Factory buildings" does not include offices, godowns, staff quarters.

2. Where, during any financial year, any addition has been made to any asset, or where any asset has been sold, discarded, demolished or destroyed, the depreciation on such assets shall be calculated on a *pro rata* basis from the date of such addition or, as the case may be, up to the date on which such asset has been sold, discarded, demolished or destroyed.

3. The following information shall also be disclosed in the accounts, namely:—

(i) depreciation methods used; and

(ii) the useful lives of the assets for computing depreciation, if they are different from the life specified in the Schedule.

4. Useful life specified in Part C of the Schedule is for whole of the asset. Where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.

5. Depreciable amount is the cost of an asset, or other amount substituted for cost, less its residual value. Ordinarily, the residual value of an asset is often insignificant but it should generally be not more than 5% of the original cost of the asset.

6. The useful lives of assets working on shift basis have been specified in the Schedule based on their single shift working. Except for assets in respect of which no extra shift depreciation is permitted (indicated by NESD in Part C above), if an asset is used for any time during the year for double shift, the depreciation will increase by 50% for that period and in case of the triple shift the depreciation shall be calculated on the basis of 100% for that period.

7. From the date this Schedule comes into effect, the carrying amount of the asset as on that date—

(a) shall be depreciated over the remaining useful life of the asset as per this Schedule;

(b) after retaining the residual value, shall be recognised in the opening balance of retained earnings where the remaining useful life of an asset is nil.

8. “Continuous process plant” means a plant which is required and designed to operate for twenty-four hours a day.

SCHEDULE III

(See section 129)

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET AND
STATEMENT OF PROFIT AND LOSS OF A COMPANY

GENERAL INSTRUCTIONS

1. Where compliance with the requirements of the Act including Accounting Standards as applicable to the companies require any change in treatment or disclosure including addition, amendment, substitution or deletion in the head or sub-head or any changes, *inter se*, in the financial statements or statements forming part thereof, the same shall be made and the requirements of this Schedule shall stand modified accordingly.

2. The disclosure requirements specified in this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Accounting Standards prescribed under the Companies Act, 2013. Additional disclosures specified in the Accounting Standards shall be made in the notes to accounts or by way of additional statement unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act shall be made in the notes to accounts in addition to the requirements set out in this Schedule.

3. (i) Notes to accounts shall contain information in addition to that presented in the Financial Statements and shall provide where required (a) narrative descriptions or disaggregations of items recognised in those statements; and (b) information about items that do not qualify for recognition in those statements.

(ii) Each item on the face of the Balance Sheet and Statement of Profit and Loss shall be cross-referenced to any related information in the notes to accounts. In preparing the Financial Statements including the notes to accounts, a balance shall be maintained between providing excessive detail that may not assist users of financial statements and not providing important information as a result of too much aggregation.

4. (i) Depending upon the turnover of the company, the figures appearing in the Financial Statements may be rounded off as given below:—

Turnover	Rounding off
(a) less than one hundred crore rupees	To the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
(b) one hundred crore rupees or more	To the nearest lakhs, millions or crores, or decimals thereof.

(ii) Once a unit of measurement is used, it shall be used uniformly in the Financial Statements.

5. Except in the case of the first Financial Statements laid before the Company (after its incorporation) the corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including notes shall also be given.

6. For the purpose of this Schedule, the terms used herein shall be as per the applicable Accounting Standards.

Note:—This part of Schedule sets out the minimum requirements for disclosure on the face of the Balance Sheet, and the Statement of Profit and Loss (hereinafter referred to as “Financial Statements” for the purpose of this Schedule) and Notes. Line items, sub-line items and sub-totals shall be presented as an addition or substitution on the face of the Financial Statements when such presentation is relevant to an understanding of the company’s financial position or performance or to cater to industry/sector-specific disclosure requirements or when required for compliance with the amendments to the Companies Act or under the Accounting Standards.

PART I — BALANCE SHEET

Name of the Company.....

Balance Sheet as at

(Rupees in.....)

Particulars	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
1	2	3	4

I. EQUITY AND LIABILITIES

(1) Shareholders’ funds

- (a) Share capital
- (b) Reserves and surplus
- (c) Money received against share warrants

(2) Share application money pending allotment

(3) Non-current liabilities

- (a) Long-term borrowings
- (b) Deferred tax liabilities (Net)
- (c) Other Long term liabilities
- (d) Long-term provisions

(4) Current liabilities

- (a) Short-term borrowings
- (b) Trade payables
- (c) Other current liabilities
- (d) Short-term provisions

TOTAL

II. ASSETS

Non-current assets

(1) (a) Fixed assets

- (i) Tangible assets
- (ii) Intangible assets
- (iii) Capital work-in-progress
- (iv) Intangible assets under development

1	2	3	4
(b) Non-current investments			
(c) Deferred tax assets (net)			
(d) Long-term loans and advances			
(e) Other non-current assets			
(2) Current assets			
(a) Current investments			
(b) Inventories			
(c) Trade receivables			
(d) Cash and cash equivalents			
(e) Short-term loans and advances			
(f) Other current assets			
TOTAL			

See accompanying notes to the Financial Statements.

Notes

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET

1. An asset shall be classified as current when it satisfies any of the following criteria:—

(a) it is expected to be realised in, or is intended for sale or consumption in, the company's normal operating cycle;

(b) it is held primarily for the purpose of being traded;

(c) it is expected to be realised within twelve months after the reporting date; or

(d) it is cash or cash equivalent unless it is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting date.

All other assets shall be classified as non-current.

2. An operating cycle is the time between the acquisition of assets for processing and their realisation in cash or cash equivalents. Where the normal operating cycle cannot be identified, it is assumed to have a duration of twelve months.

3. A liability shall be classified as current when it satisfies any of the following criteria:—

(a) it is expected to be settled in the company's normal operating cycle;

(b) it is held primarily for the purpose of being traded;

(c) it is due to be settled within twelve months after the reporting date; or

(d) the company does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting date. Terms of a liability that could, at the option of the counterparty, result in its settlement by the issue of equity instruments do not affect its classification.

All other liabilities shall be classified as non-current.

4. A receivable shall be classified as a "trade receivable" if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business.

5. A payable shall be classified as a "trade payable" if it is in respect of the amount due on account of goods purchased or services received in the normal course of business.

6. A company shall disclose the following in the notes to accounts.

A. Share Capital

For each class of share capital (different classes of preference shares to be treated separately):

- (a) the number and amount of shares authorised;
- (b) the number of shares issued, subscribed and fully paid, and subscribed but not fully paid;
- (c) par value per share;
- (d) a reconciliation of the number of shares outstanding at the beginning and at the end of the reporting period;
- (e) the rights, preferences and restrictions attaching to each class of shares including restrictions on the distribution of dividends and the repayment of capital;
- (f) shares in respect of each class in the company held by its holding company or its ultimate holding company including shares held by or by subsidiaries or associates of the holding company or the ultimate holding company in aggregate;
- (g) shares in the company held by each shareholder holding more than 5 per cent. shares specifying the number of shares held;
- (h) shares reserved for issue under options and contracts/commitments for the sale of shares/disinvestment, including the terms and amounts;
- (i) for the period of five years immediately preceding the date as at which the Balance Sheet is prepared:
 - (A) Aggregate number and class of shares allotted as fully paid-up pursuant to contract(s) without payment being received in cash.
 - (B) Aggregate number and class of shares allotted as fully paid-up by way of bonus shares.
 - (C) Aggregate number and class of shares bought back.
- (j) terms of any securities convertible into equity/preference shares issued along with the earliest date of conversion in descending order starting from the farthest such date;
- (k) calls unpaid (showing aggregate value of calls unpaid by directors and officers);
- (l) forfeited shares (amount originally paid-up).

B. Reserves and Surplus

(i) Reserves and Surplus shall be classified as:

- (a) Capital Reserves;
- (b) Capital Redemption Reserve;
- (c) Securities Premium Reserve;
- (d) Debenture Redemption Reserve;
- (e) Revaluation Reserve;
- (f) Share Options Outstanding Account;
- (g) Other Reserves—(specify the nature and purpose of each reserve and the amount in respect thereof);

(h) Surplus *i.e.*, balance in Statement of Profit and Loss disclosing allocations and appropriations such as dividend, bonus shares and transfer to/from reserves, etc.;

(Additions and deductions since last balance sheet to be shown under each of the specified heads);

(ii) A reserve specifically represented by earmarked investments shall be termed as a "fund".

(iii) Debit balance of statement of profit and loss shall be shown as a negative figure under the head "Surplus". Similarly, the balance of "Reserves and Surplus", after adjusting negative balance of surplus, if any, shall be shown under the head "Reserves and Surplus" even if the resulting figure is in the negative.

C. Long-Term Borrowings

(i) Long-term borrowings shall be classified as:

(a) Bonds/debentures;

(b) Term loans:

(A) from banks.

(B) from other parties.

(c) Deferred payment liabilities;

(d) Deposits;

(e) Loans and advances from related parties;

(f) Long term maturities of finance lease obligations;

(g) Other loans and advances (specify nature).

(ii) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(iii) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(iv) Bonds/debentures (along with the rate of interest and particulars of redemption or conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from farthest redemption or conversion date, as the case may be. Where bonds/debentures are redeemable by instalments, the date of maturity for this purpose must be reckoned as the date on which the first instalment becomes due.

(v) Particulars of any redeemed bonds/debentures which the company has power to reissue shall be disclosed.

(vi) Terms of repayment of term loans and other loans shall be stated.

(vii) Period and amount of continuing default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

D. Other Long-term Liabilities

Other Long-term Liabilities shall be classified as:

(a) Trade payables;

(b) Others.

E. Long-term provisions

The amounts shall be classified as:

(a) Provision for employee benefits;

(b) Others (specify nature).

F. Short-term borrowings

(i) Short-term borrowings shall be classified as:

(a) Loans repayable on demand;

(A) from banks.

(B) from other parties.

(b) Loans and advances from related parties;

(c) Deposits;

(d) Other loans and advances (specify nature).

(ii) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(iii) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(iv) Period and amount of default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

G. Other current liabilities

The amounts shall be classified as:

(a) Current maturities of long-term debt;

(b) Current maturities of finance lease obligations;

(c) Interest accrued but not due on borrowings;

(d) Interest accrued and due on borrowings;

(e) Income received in advance;

(f) Unpaid dividends;

(g) Application money received for allotment of securities and due for refund and interest accrued thereon. Share application money includes advances towards allotment of share capital. The terms and conditions including the number of shares proposed to be issued, the amount of premium, if any, and the period before which shares shall be allotted shall be disclosed. It shall also be disclosed whether the company has sufficient authorised capital to cover the share capital amount resulting from allotment of shares out of such share application money. Further, the period for which the share application money has been pending beyond the period for allotment as mentioned in the document inviting application for shares along with the reason for such share application money being pending shall be disclosed. Share application money not exceeding the issued capital and to the extent not refundable shall be shown under the head Equity and share application money to the extent refundable, *i.e.*, the amount in excess of subscription or in case the requirements of minimum subscription are not met, shall be separately shown under "Other current liabilities";

(h) Unpaid matured deposits and interest accrued thereon;

(i) Unpaid matured debentures and interest accrued thereon;

(j) Other payables (specify nature).

H. Short-term provisions

The amounts shall be classified as:

(a) Provision for employee benefits.

(b) Others (specify nature).

I. Tangible assets

(i) Classification shall be given as:

- (a) Land;
- (b) Buildings;
- (c) Plant and Equipment;
- (d) Furniture and Fixtures;
- (e) Vehicles;
- (f) Office equipment;
- (g) Others (specify nature).

(ii) Assets under lease shall be separately specified under each class of asset.

(iii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments and the related depreciation and impairment losses/reversals shall be disclosed separately.

(iv) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

J. Intangible assets

(i) Classification shall be given as:

- (a) Goodwill;
- (b) Brands /trademarks;
- (c) Computer software;
- (d) Mastheads and publishing titles;
- (e) Mining rights;
- (f) Copyrights, and patents and other intellectual property rights, services and operating rights;
- (g) Recipes, formulae, models, designs and prototypes;
- (h) Licences and franchise;
- (i) Others (specify nature).

(ii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments and the related amortization and impairment losses/reversals shall be disclosed separately.

(iii) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

K. Non-current investments

(i) Non-current investments shall be classified as trade investments and other investments and further classified as:

- (a) Investment property;
- (b) Investments in Equity Instruments;
- (c) Investments in preference shares;
- (d) Investments in Government or trust securities;
- (e) Investments in debentures or bonds;
- (f) Investments in Mutual Funds;
- (g) Investments in partnership firms;
- (h) Other non-current investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate indicating separately whether such bodies are (i) subsidiaries, (ii) associates, (iii) joint ventures, or (iv) controlled special purpose entities in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(ii) Investments carried at other than at cost should be separately stated specifying the basis for valuation thereof;

(iii) The following shall also be disclosed:

- (a) Aggregate amount of quoted investments and market value thereof;
- (b) Aggregate amount of unquoted investments;
- (c) Aggregate provision for diminution in value of investments.

L. Long-term loans and advances

(i) Long-term loans and advances shall be classified as:

- (a) Capital Advances;
- (b) Security Deposits;
- (c) Loans and advances to related parties (giving details thereof);
- (d) Other loans and advances (specify nature).

(ii) The above shall also be separately sub-classified as:

- (a) Secured, considered good;
- (b) Unsecured, considered good;
- (c) Doubtful.

(iii) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

(iv) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other persons or amounts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

M. Other non-current assets

Other non-current assets shall be classified as:

(i) Long-term Trade Receivables (including trade receivables on deferred credit terms);

(ii) Others (specify nature);

(iii) Long term Trade Receivables, shall be sub-classified as:

(A) (a) Secured, considered good;

(B) Unsecured, considered good;

(C) Doubtful.

(b) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(c) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

N. Current Investments

(i) Current investments shall be classified as:

(a) Investments in Equity Instruments;

(b) Investment in Preference Shares;

(c) Investments in Government or trust securities;

(d) Investments in debentures or bonds;

(e) Investments in Mutual Funds;

(f) Investments in partnership firms;

(g) Other investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate [indicating separately whether such bodies are: (i) subsidiaries, (ii) associates, (iii) joint ventures, or (iv) controlled special purpose entities] in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(ii) The following shall also be disclosed:

(a) The basis of valuation of individual investments;

(b) Aggregate amount of quoted investments and market value thereof;

(c) Aggregate amount of unquoted investments;

(d) Aggregate provision made for diminution in value of investments.

O. Inventories

(i) Inventories shall be classified as:

(a) Raw materials;

(b) Work-in-progress;

(c) Finished goods;

(d) Stock-in-trade (in respect of goods acquired for trading);

(e) Stores and spares;

(f) Loose tools;

(g) Others (specify nature).

(ii) Goods-in-transit shall be disclosed under the relevant sub-head of inventories.

(iii) Mode of valuation shall be stated.

P. Trade Receivables

(i) Aggregate amount of Trade Receivables outstanding for a period exceeding six months from the date they are due for payment should be separately stated.

(ii) Trade receivables shall be sub-classified as:

(a) Secured, considered good;

(b) Unsecured, considered good;

(c) Doubtful.

(iii) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(iv) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

Q. Cash and cash equivalents

(i) Cash and cash equivalents shall be classified as:

(a) Balances with banks;

(b) Cheques, drafts on hand;

(c) Cash on hand;

(d) Others (specify nature).

(ii) Earmarked balances with banks (for example, for unpaid dividend) shall be separately stated.

(iii) Balances with banks to the extent held as margin money or security against the borrowings, guarantees, other commitments shall be disclosed separately.

(iv) Repatriation restrictions, if any, in respect of cash and bank balances shall be separately stated.

(v) Bank deposits with more than twelve months maturity shall be disclosed separately.

R. Short-term loans and advances

(i) Short-term loans and advances shall be classified as:

(a) Loans and advances to related parties (giving details thereof);

(b) Others (specify nature).

(ii) The above shall also be sub-classified as:

(a) Secured, considered good;

(b) Unsecured, considered good;

(c) Doubtful.

(iii) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

(iv) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other person or amounts due by firms or private companies respectively in which any director is a partner or a director or a member shall be separately stated.

S. Other current assets (specify nature)

This is an all-inclusive heading, which incorporates current assets that do not fit into any other asset categories.

T. Contingent liabilities and commitments (to the extent not provided for)

(i) Contingent liabilities shall be classified as:

- (a) Claims against the company not acknowledged as debt;
- (b) Guarantees;
- (c) Other money for which the company is contingently liable.

(ii) Commitments shall be classified as:

- (a) Estimated amount of contracts remaining to be executed on capital account and not provided for;
- (b) Uncalled liability on shares and other investments partly paid;
- (c) Other commitments (specify nature).

U. The amount of dividends proposed to be distributed to equity and preference shareholders for the period and the related amount per share shall be disclosed separately. Arrears of fixed cumulative dividends on preference shares shall also be disclosed separately.

V. Where in respect of an issue of securities made for a specific purpose, the whole or part of the amount has not been used for the specific purpose at the balance sheet date, there shall be indicated by way of note how such unutilised amounts have been used or invested.

W. If, in the opinion of the Board, any of the assets other than fixed assets and non-current investments do not have a value on realisation in the ordinary course of business at least equal to the amount at which they are stated, the fact that the Board is of that opinion, shall be stated.

PART II – STATEMENT OF PROFIT AND LOSS

Name of the Company

Profit and loss statement for the year ended

(Rupees in.....)

Particulars	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
1	2	3	4
I. Revenue from operations		xxx	xxx
II. Other income		xxx	xxx
III. Total Revenue (I + II)		xxx	xxx

	1	2	3	4
IV. Expenses:				
Cost of materials consumed				
Purchases of Stock-in-Trade				
Changes in inventories of finished goods			xxx	xxx
work-in-progress and Stock-in-Trade			xxx	xxx
Employee benefits expense			xxx	xxx
Finance costs				
Depreciation and amortisation expense				
Other expenses				
Total expenses			xxx	xxx
V. Profit before exceptional and extraordinary items and tax (III - IV)			xxx	xxx
VI. Exceptional items			xxx	xxx
VII. Profit before extraordinary items and tax (V - VI)			xxx	xxx
VIII. Extraordinary items			xxx	xxx
IX. Profit before tax (VII- VIII)			xxx	xxx
X. Tax expense:				
(1) Current tax			xxx	xxx
(2) Deferred tax			xxx	xxx
XI. Profit (Loss) for the period from continuing operations (VII-VIII)			xxx	xxx
XII. Profit/(loss) from discontinuing operations			xxx	xxx
XIII. Tax expense of discontinuing operations			xxx	xxx
XIV. Profit/(loss) from Discontinuing operations (after tax) (XII-XIII)			xxx	xxx
XV. Profit (Loss) for the period (XI + XIV)			xxx	xxx
XVI. Earnings per equity share:				
(1) Basic			xxx	xxx
(2) Diluted			xxx	xxx

See accompanying notes to the financial statements.

GENERAL INSTRUCTIONS FOR PREPARATION OF STATEMENT OF PROFIT AND LOSS

1. The provisions of this Part shall apply to the income and expenditure account referred to in sub-clause (ii) of clause (40) of section 2 in like manner as they apply to a statement of profit and loss.

2. (A) In respect of a company other than a finance company revenue from operations shall disclose separately in the notes revenue from—

- (a) Sale of products;
- (b) Sale of services;
- (c) Other operating revenues;

Less:

- (d) Excise duty.

(B) In respect of a finance company, revenue from operations shall include revenue from—

- (a) Interest; and
- (b) Other financial services.

Revenue under each of the above heads shall be disclosed separately by way of notes to accounts to the extent applicable.

3. Finance Costs

Finance costs shall be classified as:

- (a) Interest expense;
- (b) Other borrowing costs;
- (c) Applicable net gain/loss on foreign currency transactions and translation.

4. Other income

Other income shall be classified as:

- (a) Interest Income (in case of a company other than a finance company);
- (b) Dividend Income;
- (c) Net gain/loss on sale of investments;
- (d) Other non-operating income (net of expenses directly attributable to such income).

5. Additional Information

A Company shall disclose by way of notes additional information regarding aggregate expenditure and income on the following items:—

(i) (a) Employee Benefits Expense [showing separately (i) salaries and wages, (ii) contribution to provident and other funds, (iii) expense on Employee Stock Option Scheme (ESOP) and Employee Stock Purchase Plan (ESPP), (iv) staff welfare expenses].

(b) Depreciation and amortisation expense;

(c) Any item of income or expenditure which exceeds one per cent. of the revenue from operations or Rs. 1,00,000, whichever is higher;

(d) Interest Income;

- (e) Interest expense;
- (f) Dividend income;
- (g) Net gain/loss on sale of investments;
- (h) Adjustments to the carrying amount of investments;
- (i) Net gain or loss on foreign currency transaction and translation (other than considered as finance cost);
- (j) Payments to the auditor as (a) auditor; (b) for taxation matters; (c) for company law matters; (d) for management services; (e) for other services; and (f) for reimbursement of expenses;
- (k) In case of Companies covered under section 135, amount of expenditure incurred on corporate social responsibility activities;
- (l) Details of items of exceptional and extraordinary nature;
- (m) Prior period items;
- (ii) (a) In the case of manufacturing companies,—
 - (1) Raw materials under broad heads.
 - (2) goods purchased under broad heads.
- (b) In the case of trading companies, purchases in respect of goods traded in by the company under broad heads.
- (c) In the case of companies rendering or supplying services, gross income derived from services rendered or supplied under broad heads.
- (d) In the case of a company, which falls under more than one of the categories mentioned in (a), (b) and (c) above, it shall be sufficient compliance with the requirements herein if purchases, sales and consumption of raw material and the gross income from services rendered is shown under broad heads.
- (e) In the case of other companies, gross income derived under broad heads.
- (iii) In the case of all concerns having works in progress, works-in-progress under broad heads.
- (iv) (a) The aggregate, if material, of any amounts set aside or proposed to be set aside, to reserve, but not including provisions made to meet any specific liability, contingency or commitment known to exist at the date as to which the balance sheet is made up.
- (b) The aggregate, if material, of any amounts withdrawn from such reserves.
- (v) (a) The aggregate, if material, of the amounts set aside to provisions made for meeting specific liabilities, contingencies or commitments.
- (b) The aggregate, if material, of the amounts withdrawn from such provisions, as no longer required.
- (vi) Expenditure incurred on each of the following items, separately for each item:—
 - (a) Consumption of stores and spare parts;
 - (b) Power and fuel;
 - (c) Rent;
 - (d) Repairs to buildings;
 - (e) Repairs to machinery;
 - (f) Insurance;

- (g) Rates and taxes, excluding, taxes on income;
- (h) Miscellaneous expenses,
- (vii) (a) Dividends from subsidiary companies.
- (b) Provisions for losses of subsidiary companies.
- (viii) The profit and loss account shall also contain by way of a note the following information, namely:—

(a) Value of imports calculated on C.I.F basis by the company during the financial year in respect of—

- I. Raw materials;
- II. Components and spare parts;
- III. Capital goods;

(b) Expenditure in foreign currency during the financial year on account of royalty, know-how, professional and consultation fees, interest, and other matters;

(c) Total value if all imported raw materials, spare parts and components consumed during the financial year and the total value of all indigenous raw materials, spare parts and components similarly consumed and the percentage of each to the total consumption;

(d) The amount remitted during the year in foreign currencies on account of dividends with a specific mention of the total number of non-resident shareholders, the total number of shares held by them on which the dividends were due and the year to which the dividends related;

(e) Earnings in foreign exchange classified under the following heads, namely:—

- I. Export of goods calculated on F.O.B. basis;
- II. Royalty, know-how, professional and consultation fees;
- III. Interest and dividend;
- IV. Other income, indicating the nature thereof.

Note:— Broad heads shall be decided taking into account the concept of materiality and presentation of true and fair view of financial statements.

GENERAL INSTRUCTIONS FOR THE PREPARATION OF CONSOLIDATED FINANCIAL STATEMENTS

1. Where a company is required to prepare Consolidated Financial Statements, *i.e.*, consolidated balance sheet and consolidated statement of profit and loss, the company shall *mutatis mutandis* follow the requirements of this Schedule as applicable to a company in the preparation of balance sheet and statement of profit and loss. In addition, the consolidated financial statements shall disclose the information as per the requirements specified in the applicable Accounting Standards including the following:

(i) Profit or loss attributable to “minority interest” and to owners of the parent in the statement of profit and loss shall be presented as allocation for the period.

(ii) “Minority interests” in the balance sheet within equity shall be presented separately from the equity of the owners of the parent.

2. In Consolidated Financial Statements, the following shall be disclosed by way of additional information:

Name of the entity in the	Net Assets, i.e., total assets minus total liabilities		Share in profit or loss	
	As % of consolidated net assets	Amount	As % of consolidated profit or loss	Amount
1	2	3	4	5
Parent				
Subsidiaries				
Indian				
1.				
2.				
3.				
.				
Foreign				
1.				
2.				
3.				
.				
Minority				
Interests in				
all subsidiaries				
Associates				
(Investment				
as per the equity				
method)				
Indian				
1.				
2.				
3.				
.				
Foreign				
1.				
2.				
3.				
.				
Joint Ventures				
(as per pro-				
portionate				
consolidation/				
investment				
as per the				
equity method)				

1	2	3	4	5
Indian				
1.				
2.				
3.				
Foreign				
1.				
2.				
3.				
TOTAL				

3. All subsidiaries, associates and joint ventures (whether Indian or foreign) will be covered under consolidated financial statements.

4. An entity shall disclose the list of subsidiaries or associates or joint ventures which have not been consolidated in the consolidated financial statements along with the reasons of not consolidating.

SCHEDULE IV

[See section 149(8)]

CODE FOR INDEPENDENT DIRECTORS

The Code is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.

I. Guidelines of professional conduct:

An independent director shall:

- (1) uphold ethical standards of integrity and probity;
- (2) act objectively and constructively while exercising his duties;
- (3) exercise his responsibilities in a *bona fide* manner in the interest of the company;
- (4) devote sufficient time and attention to his professional obligations for informed and balanced decision making;
- (5) not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;
- (6) not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;
- (7) refrain from any action that would lead to loss of his independence;
- (8) where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;
- (9) assist the company in implementing the best corporate governance practices.

II. Role and functions:

The independent directors shall:

- (1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;
- (2) bring an objective view in the evaluation of the performance of board and management;
- (3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- (4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;
- (5) safeguard the interests of all stakeholders, particularly the minority shareholders;
- (6) balance the conflicting interest of the stakeholders;
- (7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;
- (8) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.

III. Duties :

The independent directors shall—

- (1) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;
- (2) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;
- (3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;
- (4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;
- (5) strive to attend the general meetings of the company;
- (6) where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;
- (7) keep themselves well informed about the company and the external environment in which it operates;
- (8) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;
- (9) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;
- (10) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- (11) report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy;
- (12) acting within his authority, assist in protecting the legitimate interests of the company, shareholders and its employees;
- (13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

IV. Manner of appointment:

- (1) Appointment process of independent directors shall be independent of the company management; while selecting independent directors the Board shall ensure that there is appropriate balance of skills, experience and knowledge in the Board so as to enable the Board to discharge its functions and duties effectively.
- (2) The appointment of independent director(s) of the company shall be approved at the meeting of the shareholders.
- (3) The explanatory statement attached to the notice of the meeting for approving the appointment of independent director shall include a statement that in the opinion of the Board, the independent director proposed to be appointed fulfils the conditions specified in the Act and the rules made thereunder and that the proposed director is independent of the management.

(4) The appointment of independent directors shall be formalised through a letter of appointment, which shall set out :

- (a) the term of appointment;
- (b) the expectation of the Board from the appointed director; the Board-level committee(s) in which the director is expected to serve and its tasks;
- (c) the fiduciary duties that come with such an appointment along with accompanying liabilities;
- (d) provision for Directors and Officers (D and O) insurance, if any;
- (e) the Code of Business Ethics that the company expects its directors and employees to follow;
- (f) the list of actions that a director should not do while functioning as such in the company; and
- (g) the remuneration, mentioning periodic fees, reimbursement of expenses for participation in the Boards and other meetings and profit related commission, if any.

(5) The terms and conditions of appointment of independent directors shall be open for inspection at the registered office of the company by any member during normal business hours.

(6) The terms and conditions of appointment of independent directors shall also be posted on the company's website.

V. Re-appointment:

The re-appointment of independent director shall be on the basis of report of performance evaluation.

VI. Resignation or removal:

- (1) The resignation or removal of an independent director shall be in the same manner as is provided in sections 168 and 169 of the Act.
- (2) An independent director who resigns or is removed from the Board of the company shall be replaced by a new independent director within a period of not more than one hundred and eighty days from the date of such resignation or removal, as the case may be.
- (3) Where the company fulfils the requirement of independent directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director shall not apply.

VII. Separate meetings:

- (1) The independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management;
- (2) All the independent directors of the company shall strive to be present at such meeting;
- (3) The meeting shall:
 - (a) review the performance of non-independent directors and the Board as a whole;

- (b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;
- (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

VIII. Evaluation mechanism:

- (1) The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.
- (2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

SCHEDULE V

(See sections 196 and 197)

PART I

CONDITIONS TO BE FULFILLED FOR THE APPOINTMENT OF A MANAGING OR WHOLE-TIME DIRECTOR OR A MANAGER WITHOUT THE APPROVAL OF THE CENTRAL GOVERNMENT

APPOINTMENTS

No person shall be eligible for appointment as a managing or whole-time director or a manager (hereinafter referred to as managerial person) of a company unless he satisfies the following conditions, namely:—

(a) he had not been sentenced to imprisonment for any period, or to a fine exceeding one thousand rupees, for the conviction of an offence under any of the following Acts, namely:—

- (i) the Indian Stamp Act, 1899 (2 of 1899);
- (ii) the Central Excise Act, 1944 (1 of 1944);
- (iii) the Industries (Development and Regulation) Act, 1951 (65 of 1951);
- (iv) the Prevention of Food Adulteration Act, 1954 (37 of 1954);
- (v) the Essential Commodities Act, 1955 (10 of 1955);
- (vi) the Companies Act, 2013;
- (vii) the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (viii) the Wealth-tax Act, 1957 (27 of 1957);
- (ix) the Income-tax Act, 1961 (43 of 1961);
- (x) the Customs Act, 1962 (52 of 1962);
- (xi) the Competition Act, 2002 (12 of 2003);
- (xii) the Foreign Exchange Management Act, 1999 (42 of 1999);
- (xiii) the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);
- (xiv) the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (xv) the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);
- (xvi) the Prevention of Money-Laundering Act, 2002 (15 of 2003);

(b) he had not been detained for any period under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that where the Central Government has given its approval to the appointment of a person convicted or detained under sub-paragraph (a) or sub-paragraph (b), as the case may be, no further approval of the Central Government shall be necessary for the subsequent appointment of that person if he had not been so convicted or detained subsequent to such approval.

(c) he has completed the age of twenty-one years and has not attained the age of seventy years:

Provided that where he has attained the age of seventy years; and where his appointment is approved by a special resolution passed by the company in general meeting, no further approval of the Central Government shall be necessary for such appointment;

- (d) where he is a managerial person in more than one company, he draws remuneration from one or more companies subject to the ceiling provided in section V of Part II;
- (e) he is resident of India.

Explanation I.—For the purpose of this Schedule, resident in India includes a person who has been staying in India for a continuous period of not less than twelve months immediately preceding the date of his appointment as a managerial person and who has come to stay in India,—

- (i) for taking up employment in India; or
- (ii) for carrying on a business or vacation in India.

Explanation II.—This condition shall not apply to the companies in Special Economic Zones as notified by Department of Commerce from time to time:

Provided that a person, being a non-resident in India shall enter India only after obtaining a proper Employment Visa from the concerned Indian mission abroad. For this purpose, such person shall be required to furnish, along with the visa application form, profile of the company, the principal employer and terms and conditions of such person's appointment.

PART II

REMUNERATION

Section I.— Remuneration payable by companies having profits:

Subject to the provisions of section 197, a company having profits in a financial year may pay remuneration to a managerial person or persons not exceeding the limits specified in such section.

Section II.— Remuneration payable by companies having no profit or inadequate profit without Central Government approval:

Where in any financial year during the currency of tenure of a managerial person, a company has no profits or its profits are inadequate, it may, without Central Government approval, pay remuneration to the managerial person not exceeding the higher of the limits under (A) and (B) given below:—

(A):

(1)	(2)
Where the effective capital is	Limit of yearly remuneration payable shall not exceed (Rupees)
(i) Negative or less than 5 crores	30 lakhs
(ii) 5 crores and above but less than 100 crores	42 lakhs
(iii) 100 crores and above but less than 250 crores	60 lakhs
(iv) 250 crores and above	60 lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores:

Provided that the above limits shall be doubled if the resolution passed by the shareholders is a special resolution.

Explanation.—It is hereby clarified that for a period less than one year, the limits shall be pro-rated.

(B) In the case of a managerial person who was not a security holder holding securities of the company of nominal value of rupees five lakh or more or an employee or a director of the company or not related to any director or promoter at any time during the two years prior to his appointment as a managerial person, — 2.5% of the current relevant profit:

Provided that if the resolution passed by the shareholders is a special resolution, this limit shall be doubled:

Provided further that the limits specified under this section shall apply, if—

- (i) payment of remuneration is approved by a resolution passed by the Board and, in the case of a company covered under sub-section (1) of section 178 also by the Nomination and Remuneration Committee;
- (ii) the company has not made any default in repayment of any of its debts (including public deposits) or debentures or interest payable thereon for a continuous period of thirty days in the preceding financial year before the date of appointment of such managerial person;
- (iii) a special resolution has been passed at the general meeting of the company for payment of remuneration for a period not exceeding three years;
- (iv) a statement along with a notice calling the general meeting referred to in clause (iii) is given to the shareholders containing the following information, namely:—

I. General Information:

- (1) Nature of industry
- (2) Date or expected date of commencement of commercial production
- (3) In case of new companies, expected date of commencement of activities as per project approved by financial institutions appearing in the prospectus
- (4) Financial performance based on given indicators
- (5) Foreign investments or collaborations, if any.

II. Information about the appointee:

- (1) Background details
- (2) Past remuneration
- (3) Recognition or awards
- (4) Job profile and his suitability
- (5) Remuneration proposed
- (6) Comparative remuneration profile with respect to industry, size of the company, profile of the position and person (in case of expatriates the relevant details would be with respect to the country of his origin)
- (7) Pecuniary relationship directly or indirectly with the company, or relationship with the managerial personnel, if any.

III. Other information:

- (1) Reasons of loss or inadequate profits
- (2) Steps taken or proposed to be taken for improvement
- (3) Expected increase in productivity and profits in measurable terms.

IV. Disclosures:

The following disclosures shall be mentioned in the Board of Director's report under the heading "Corporate Governance"; if any, attached to the financial statement:—

- (i) all elements of remuneration package such as salary, benefits, bonuses, stock options, pension, etc., of all the directors;

- (ii) details of fixed component and performance linked incentives along with the performance criteria;
- (iii) service contracts, notice period, severance fees;
- (iv) stock option details, if any, and whether the same has been issued at a discount as well as the period over which accrued and over which exercisable.

Section III.—Remuneration payable by companies having no profit or inadequate profit without Central Government approval in certain special circumstances:

In the following circumstances a company may, without the Central Government approval, pay remuneration to a managerial person in excess of the amounts provided in Section II above:—

- (a) where the remuneration in excess of the limits specified in Section I or II is paid by any other company and that other company is either a foreign company or has got the approval of its shareholders in general meeting to make such payment, and treats this amount as managerial remuneration for the purpose of section 197 and the total managerial remuneration payable by such other company to its managerial persons including such amount or amounts is within permissible limits under section 197.
- (b) where the company—
 - (i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or
 - (ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction or National Company Law Tribunal, for a period of five years from the date of sanction of scheme of revival;
 it may pay remuneration up to two times the amount permissible under Section II.
- (c) where remuneration of a managerial person exceeds the limits in Section II but the remuneration has been fixed by the Board for Industrial and Financial Reconstruction or the National Company Law Tribunal:

Provided that the limits under this Section shall be applicable subject to meeting all the conditions specified under Section II and the following additional conditions:—

- (i) except as provided in para (a) of this Section, the managerial person is not receiving remuneration from any other company;
- (ii) the auditor or Company Secretary of the company or where the company has not appointed a Secretary, a Secretary in whole-time practice, certifies that all secured creditors and term lenders have stated in writing that they have no objection for the appointment of the managerial person as well as the quantum of remuneration and such certificate is filed along with the return as prescribed under sub-section (4) of section 196.
- (iii) the auditor or Company Secretary or where the company has not appointed a secretary, a secretary in whole-time practice certifies that there is no default on payments to any creditors, and all dues to deposit holders are being settled on time.
- (d) a company in a Special Economic Zone as notified by Department of Commerce from time to time which has not raised any money by public issue of shares or debentures in India, and has not made any default in India in repayment of any of its debts (including public deposits) or debentures or interest payable thereon for a continuous period of thirty days in any financial year, may pay remuneration up to Rs. 2,40,00,000 per annum.

Section IV.—Perquisites not included in managerial remuneration:

1. A managerial person shall be eligible for the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II and Section III:—

- (a) contribution to provident fund, superannuation fund or annuity fund to the extent these either singly or put together are not taxable under the Income-tax Act, 1961 (43 of 1961);
- (b) gratuity payable at a rate not exceeding half a month's salary for each completed year of service; and
- (c) encashment of leave at the end of the tenure.

2. In addition to the perquisites specified in paragraph 1 of this section, an expatriate managerial person (including a non-resident Indian) shall be eligible to the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II or Section III—

- (a) *Children's education allowance:* In case of children studying in or outside India, an allowance limited to a maximum of Rs. 12,000 per month per child or actual expenses incurred, whichever is less. Such allowance is admissible up to a maximum of two children.
- (b) *Holiday passage for children studying outside India or family staying abroad:* Return holiday passage once in a year by economy class or once in two years by first class to children and to the members of the family from the place of their study or stay abroad to India if they are not residing in India, with the managerial person.
- (c) *Leave travel concession:* Return passage for self and family in accordance with the rules specified by the company where it is proposed that the leave be spent in home country instead of anywhere in India.

Explanation I.— For the purposes of Section II of this Part, “effective capital” means the aggregate of the paid-up share capital (excluding share application money or advances against shares); amount, if any, for the time being standing to the credit of share premium account; reserves and surplus (excluding revaluation reserve); long-term loans and deposits repayable after one year (excluding working capital loans, over drafts, interest due on loans unless funded, bank guarantee, etc., and other short-term arrangements) as reduced by the aggregate of any investments (except in case of investment by an investment company whose principal business is acquisition of shares, stock, debentures or other securities), accumulated losses and preliminary expenses not written off.

Explanation II.— (a) Where the appointment of the managerial person is made in the year in which company has been incorporated, the effective capital shall be calculated as on the date of such appointment;

(b) In any other case the effective capital shall be calculated as on the last date of the financial year preceding the financial year in which the appointment of the managerial person is made.

Explanation III.— For the purposes of this Schedule, “family” means the spouse, dependent children and dependent parents of the managerial person.

Explanation IV.— The Nomination and Remuneration Committee while approving the remuneration under Section II or Section III, shall—

- (a) take into account, financial position of the company, trend in the industry, appointee's qualification, experience, past performance, past remuneration, etc.;

(b) be in a position to bring about objectivity in determining the remuneration package while striking a balance between the interest of the company and the shareholders.

Explanation V.— For the purposes of this Schedule, “negative effective capital” means the effective capital which is calculated in accordance with the provisions contained in *Explanation I* of this Part is less than zero.

Explanation VI.— For the purposes of this Schedule: —

(A) “current relevant profit” means the profit as calculated under section 198 but without deducting the excess of expenditure over income referred to in sub-section 4 (1) thereof in respect of those years during which the managerial person was not an employee, director or shareholder of the company or its holding or subsidiary companies.

(B) “Remuneration” means remuneration as defined in clause (78) of section 2 and includes reimbursement of any direct taxes to the managerial person.

Section V.—Remuneration payable to a managerial person in two companies:

Subject to the provisions of sections I to IV, a managerial person shall draw remuneration from one or both companies, provided that the total remuneration drawn from the companies does not exceed the higher maximum limit admissible from any one of the companies of which he is a managerial person.

PART III

Provisions applicable to Parts I and II of this Schedule

1. The appointment and remuneration referred to in Part I and Part II of this Schedule shall be subject to approval by a resolution of the shareholders in general meeting.

2. The auditor or the Secretary of the company or where the company is not required to appoint a Secretary, a Secretary in whole-time practice shall certify that the requirement of this Schedule have been complied with and such certificate shall be incorporated in the return filed with the Registrar under sub-section (4) of section 196.

PART IV

The Central Government may, by notification, exempt any class or classes of companies from any of the requirements contained in this Schedule.

SCHEDULE VI

(See sections 55 and 186)

The term “infrastructural projects” or “infrastructural facilities” includes the following projects or activities:—

(1) Transportation (including inter modal transportation), includes the following:—

(a) roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services;

(b) rail system, rail transport providers, metro rail roads and other railway related services;

(c) ports (including minor ports and harbours), inland waterways, coastal shipping including shipping lines and other port related services;

(d) aviation, including airports, heliports, airlines and other airport related services;

(e) logistics services.

(2) Agriculture, including the following, namely:—

(a) infrastructure related to storage facilities;

(b) construction relating to projects involving agro-processing and supply of inputs to agriculture;

(c) construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality.

(3) Water management, including the following, namely:—

(a) water supply or distribution;

(b) irrigation;

(c) water treatment.

(4) Telecommunication, including the following, namely:—

(a) basic or cellular, including radio paging;

(b) domestic satellite service (i.e., satellite owned and operated by an Indian company for providing telecommunication service);

(c) network of trunking, broadband network and internet services.

(5) Industrial, commercial and social development and maintenance, including the following, namely:—

(a) real estate development, including an industrial park or special economic zone;

(b) tourism, including hotels, convention centres and entertainment centres;

(c) public markets and buildings, trade fair, convention, exhibition, cultural centres, sports and recreation infrastructure, public gardens and parks;

(d) construction of educational institutions and hospitals;

(e) other urban development, including solid waste management systems, sanitation and sewerage systems.

(6) Power, including the following:—

(a) generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;

(b) transmission, distribution or trading of power by laying a network of new transmission or distribution lines.

(7) Petroleum and natural gas, including the following:—

(a) exploration and production;

(b) import terminals;

(c) liquefaction and re-gasification;

(d) storage terminals;

(e) transmission networks and distribution networks including city gas infrastructure.

(8) Housing, including the following:—

(a) urban and rural housing including public / mass housing, slum rehabilitation, etc;

(b) other allied activities such as drainage, lighting, laying of roads, sanitation and facilities.

(9) Other miscellaneous facilities/services, including the following:—

(a) mining and related activities;

(b) technology related infrastructure;

(c) manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like energy saving devices and metering devices;

(d) environment related infrastructure;

(e) disaster management services;

(f) preservation of monuments and icons;

(g) emergency services (including medical, police, fire and rescue).

(10) such other facility service as may be prescribed.

SCHEDULE VII

(See sections 135)

Activities which may be included by companies in their Corporate Social Responsibility Policies

Activities relating to:—

- (i) eradicating extreme hunger and poverty;
- (ii) promotion of education;
- (iii) promoting gender equality and empowering women;
- (iv) reducing child mortality and improving maternal health;
- (v) combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- (vi) ensuring environmental sustainability;
- (vii) employment enhancing vocational skills;
- (viii) social business projects;
- (ix) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- (x) such other matters as may be prescribed.

भाग ४ (ग)

अन्तिम नियम

चिकित्सा शिक्षा विभाग मंत्रालय वल्लभ भवन भोपाल प्रथम परिनियम

भोपाल दिनांक 04 अक्टूबर 2013

क्र. एफ-4-18-2013-2-पचपन.-मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 के साथ पठित धारा 37 की उपधारा (1) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, राज्य सरकार, एतद्वारा, मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय के लिए निम्नलिखित प्रथम परिनियम बनाती है, अर्थात् :-

1. संक्षिप्त नाम तथा प्रारंभ. —

- (1) इन परिनियमों का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय परिनियम, 2013 है ;
- (2) ये मध्यप्रदेश राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. परिभाषाएं. — इन परिनियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —

- (क) "अधिनियम" से अभिप्रेत है, मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) ;
- (ख) "कर्मचारी" से अभिप्रेत है, किसी मूल पद पर स्थायी रूप से नियुक्त विश्वविद्यालय का प्रत्येक पूर्णकालिक अधिकारी, शिक्षक या अन्य कर्मचारी और इसमें सम्मिलित हैं वे कर्मचारी जो तीन से अन्यून वर्षों की किसी निश्चित कालावधि के लिए संविदा पर नियुक्त किए गए हों और ऐसे व्यक्ति जिनकी सेवाएं राज्य सरकार द्वारा विश्वविद्यालय को सौंपी गई हों ;
- (ग) "विहित" से अभिप्रेत है, नियमों द्वारा विहित ;
- (घ) "कुलाधिसचिव" से अभिप्रेत है, कार्यपरिषद् द्वारा कुलाधिसचिव के रूप में नियुक्त कोई व्यक्ति ;
- (ङ) कर्मचारी के संबंध में "वेतन" से अभिप्रेत है, मासिक वेतन और जिसमें सम्मिलित हैं कर्मचारी को देय समस्त नियत भत्ते ;
- (च) "धारा" से अभिप्रेत है, अधिनियम की धारा ;
- (छ) "राज्य सरकार" से अभिप्रेत है, मध्यप्रदेश सरकार ;
- (ज) "परिनियम" से अभिप्रेत है, मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
- (झ) "विश्वविद्यालय" से अभिप्रेत है, मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय ;
- (ञ) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।

परिनियम क्रमांक – एक**कुलपति की सेवा के निबंधन तथा शर्तें**

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (कुलपति की सेवा के निबंधन तथा शर्तें) परिनियम, 2013 है।
2. **परिभाषा.**— इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. कुलपति, राज्य सरकार द्वारा समय-समय पर यथा अनुमोदित वेतन तथा अन्य भत्ते प्राप्त करेगा। यदि वह अधिवार्षिकी की सामान्य आयु प्राप्त करने के पश्चात् अपना कार्यभार ग्रहण करता है और अपनी पूर्व सेवाओं के कारण पेंशन प्राप्त कर रहा है तो संराशीकरण से पूर्व निर्धारित उसकी पेंशन की सकल राशि में से उसका वेतन तथा भत्ता घटा दिया जाएगा।
4.
 - (1) कुलपति, उसकी पदावधि के दौरान विश्वविद्यालय द्वारा संधारित भाड़ा मुक्त आवासिक स्थान का हकदार होगा।
 - (2) कुलपति के आवास पर विश्वविद्यालय द्वारा संधारित एक सचिवीय कार्यालय होगा।
 - (3) कुलपति, जब भी आवश्यक हो, ऐसी शर्तों पर जैसी कि समतुल्य संवर्ग के विभागाध्यक्ष को लागू हों, आधिकारिक प्रयोजनों के लिए विश्वविद्यालय के वाहन के उपयोग का हकदार होगा।
5. कुलपति, विश्वविद्यालय की सामान्य भविष्य निधि, पेंशन तथा उपदान योजना के लिए विकल्प लेने का पात्र होगा। यदि उसने अपनी पदावधि प्रारंभ होने के पूर्व अधिवार्षिकी की सामान्य आयु प्राप्त नहीं की है और कुलपति के रूप में पद ग्रहण करने के पूर्व वह केन्द्र/राज्य सरकार या केन्द्रीय/राज्य के स्वशासी निकाय या किसी केन्द्रीय/राज्य विश्वविद्यालय के कर्मचारी के रूप में पेंशन योजना का भी पात्र होगा। यदि वह विश्वविद्यालय की सामान्य भविष्य निधि सह पेंशन सह-उपदान योजना में सम्मिलित होने का विकल्प लेता है तो कुलपति पेंशन के प्रयोजन के लिए अधिवार्षिकी की सामान्य आयु पूर्ण होने तक कुलपति के रूप में अपनी सेवा के साथ अपनी पिछली सेवा को जोड़ने के लाभ का हकदार होगा। इस प्रयोजन के लिए विश्वविद्यालय पूर्ववर्ती संगठनों से पेंशन/अंशदायी भविष्य निधि दायित्व प्राप्त करेगा। अधिवार्षिकी की सामान्य आयु से परे विश्वविद्यालय में उसके द्वारा की गई सेवा की अवधि को, पेंशन संबंधी लाभों के प्रयोजन के लिए संगणना में नहीं लिया जाएगा। पेंशन-सह-उपदान लाभ केवल उसके द्वारा कुलपति का पद त्याग देने की तारीख से ही देय होंगे। यदि कुलपति, अधिवार्षिकी आयु के पश्चात् अपना पदभार ग्रहण करता है या पदावधि के दौरान अधिवार्षिकी आयु प्राप्त करता है तो वह उसके पदभार ग्रहण करने की तारीख से अंशदायी भविष्य निधि योजना में सम्मिलित होने का हकदार होगा।
6. कुलपति, एक कलैण्डर वर्ष में 30 दिन के पूर्ण वैतनिक अर्जित अवकाश का हकदार होगा। ऐसा अवकाश उसके खाते में अग्रिम रूप से 15 दिन की दो अर्द्धवार्षिक किस्तों में प्रतिवर्ष जनवरी के प्रथम दिन और जुलाई के प्रथम दिन को जमा किया जाएगा :

परन्तु यदि कुलपति अर्द्ध वर्ष के चालू रहने के दौरान कुलपति के पद का कार्यभार ग्रहण करता है/पद त्याग देता है तो सेवा के प्रत्येक पूर्ण मास के लिए ढाई दिन प्रतिमास की दर से आनुपातिक रूप से अवकाश जोड़ा जाएगा।

7. (1) कुलपति के खाते में अवकाश पूर्ववर्ती अर्द्ध वर्ष की समाप्ति पर, नये अर्द्ध वर्ष में इन शर्तों के अध्यधीन रहते हुए अग्रणीत किए जाएंगे कि उस अर्द्ध वर्ष के लिए इस प्रकार अग्रणीत किए गए तथा जमा अवकाश 240 दिन की अधिकतम सीमा से अधिक न हों।
- (2) कुलपति, अपना पदभार त्यागने पर, उसके पदभार के समय उसे देय नकदीकरण के लाभों को सम्मिलित करते हुए, अधिकतम 240 दिन की शर्त के अध्यधीन रहते हुए पूर्ण वेतन पर उसे अनुज्ञेय अवकाश के दिनों के लिए अवकाश वेतन के समतुल्य कोई राशि पाने का हकदार होगा।
- (3) कुलपति, सेवा के प्रत्येक पूर्ण वर्ष के लिए 20 दिन की दर से अर्द्ध वैतनिक अवकाश का भी हकदार होगा। इस अर्द्ध वैतनिक अवकाश का पूर्ण वेतन पर लघुकृत अवकाश के रूप में केवल चिकित्सा प्रमाण पत्र पर ही उपभोग किया जा सकेगा। जब लघुकृत अवकाश का दो बार उपभोग किया जाता है, तो अर्द्ध वैतनिक अवकाश की रकम देय अर्द्ध वैतनिक अवकाश से विकलित की जाएगी।
- (4) कुलपति, स्वयं चिकित्सा आधार पर या अन्यथा चार वर्ष की किसी पदावधि के दौरान अधिकतम तीन माह की किसी कालावधि के अवैतनिक असाधारण अवकाश का उपभोग करने का भी हकदार होगा।
8. (1) कुलपति, राज्य सरकार के अधिकारियों को यथा अनुज्ञेय चिकित्सा प्रतिपूर्ति तथा अवकाश यात्रा रियायत जैसे समस्त अन्य लाभों का हकदार होगा।
- (2) कुलपति, कुलपति के रूप में अपनी नियुक्ति पर तथा कार्यभार त्यागने पर यात्रा भत्ते का हकदार होगा।
- (3) अवकाश तथा उन अन्य लाभों के लिए जो इस नियम में सम्मिलित नहीं हैं, राज्य सरकार के नियम लागू होंगे।
- (4) कुलपति के रूप में नियुक्त व्यक्ति का, उस पद पर, जिस पर कि वह नियुक्ति के पूर्व स्थायी था, यदि कोई हो धारणाधिकार होगा।
9. (1) यदि कोई व्यक्ति सरकार की संचित निधि से कोई मानदेय प्राप्त कर रहा है या यदि किसी संबद्ध महाविद्यालय अथवा किसी मान्यताप्राप्त संस्था का प्राचार्य या विश्वविद्यालय का कोई शिक्षक, कुलपति के रूप में नियुक्त किया जाता है, तो ऐसे व्यक्ति की कुलपति के रूप में, पदावधि के दौरान सेवा के निबंधन तथा शर्तों में उसके अलाभकारी रूप में कोई परिवर्तन नहीं किया जाएगा; बशर्ते ऐसे पद में हुई पारिणामिक रिक्ति को कुलपति के रूप में ऐसे व्यक्ति की पदावधि के दौरान किसी दीर्घकालिक नियुक्ति द्वारा नहीं भरा जाएगा।
- (2) पैतृक विभाग की सुविधाओं तथा अन्य भत्तों को संरक्षित किया जाएगा।
10. कुलपति, लिखित में, कुलाधिपति को संबोधित एक मास की स्वहस्ताक्षरित सूचना के पश्चात् अपने पद से त्यागपत्र दे सकता है और कुलाधिपति द्वारा त्यागपत्र स्वीकार किए जाने पर अथवा उक्त सूचना अवधि की समाप्ति पर, जो भी पूर्वतर हो, वह पद पर नहीं रह जाएगा।

परिनियम क्रमांक – दो**कुलपति की शक्तियां एवं कर्तव्य**

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (कुलपति की शक्तियां एवं कर्तव्य) परिनियम, 2013 है।
2. **परिभाषा.**— इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. कुलपति, विश्वविद्यालय का प्रमुख प्रशासनिक और मुख्य शैक्षणिक अधिकारी होगा और इस हैसियत से वह विश्वविद्यालय के प्रशासन, वित्त और शैक्षणिक गतिविधियों पर पूर्ण नियंत्रण रखेगा तथा विश्वविद्यालय के प्राधिकारियों के विनिश्चयों को प्रभावी रूप देगा। वह विश्वविद्यालय का सुचारु प्रशासन तथा अनुशासन बनाए रखने के लिए उत्तरदायी होगा। विश्वविद्यालय के विभिन्न प्रभागों में समन्वय स्थापित करेगा और विश्वविद्यालय के सुचारु, निष्ठापूर्ण तथा ईमानदार कार्यकरण के लिए शैक्षणिक तथा गैर शैक्षणिक दोनों कर्मचारिवृन्द पर कठोर सतर्कता सुनिश्चित करेगा।
4. कुलपति यह सुनिश्चित करेगा कि कुलाधिपति द्वारा जारी निर्देशों का कड़ाई से पालन हो रहा है अथवा यथास्थिति, समय अवधि में क्रियान्वयन हो रहा है।
5. कुलपति का यह कर्तव्य होगा कि वह यह सुनिश्चित करे कि अधिनियम, परिनियमों, अध्यादेश, नियमों और विनियमों के उपबंधों का निष्ठापूर्वक अनुपालन हो रहा है और यह कि प्राधिकारियों, निकायों तथा समितियों के ऐसे विनिश्चयों का, जो कि अधिनियम, परिनियमों, अध्यादेशों, नियमों अथवा विनियमों से असंगत न हों, सुचारु रूप से क्रियान्वयन हो और उस प्रयोजन के लिए अधिनियम के अधीन उसमें निहित समस्त शक्तियों का प्रयोग करेगा।
6. (1) कुलपति, उतनी समितियों का गठन कर सकेगा जितनी कि वह इस अधिनियम के अधीन उसे सौंपे गए कर्तव्यों के निर्वहन के लिए, अपनी सहायता हेतु आवश्यक समझे।
 (2) कुलपति, विश्वविद्यालय के कर्मचारिवृन्द के बीच सतर्कता रखने और अनुशासन बनाए रखने के लिए मध्यप्रदेश सिविल सेवा (वर्गीकरण नियंत्रण तथा अपील) नियम, 1966 के अर्थ के अंतर्गत अनुशासनिक प्राधिकारी होगा। जो कि विश्वविद्यालय में शैक्षणिक एवं गैर शैक्षणिक दोनों कर्मचारिवृन्द के विरुद्ध अनुशासनिक कार्यवाहियों के प्रयोजन के लिए यथावश्यक परिवर्तन सहित अनुसरित किए जाएंगे।
7. जहां किसी मामले को परिनियमों, अध्यादेशों, नियमों अथवा विनियमों द्वारा विनियमित किया जाना अपेक्षित हो परन्तु इस निमित्त कोई परिनियम, अध्यादेश, नियम या विनियम नहीं बनाए गए हों तो कुलपति, तत्समय ऐसे निर्देश जारी करके जैसे कि कुलपति आवश्यक समझे, मामले को विनियमित कर सकेगा और तत्पश्चात् शीघ्रातिशीघ्र अथवा 365 दिन के भीतर, जो भी कम हो अधिनियम के अनुसार अनुमोदनार्थ, कार्यपालिक परिषद् या अन्य प्राधिकारी या संबंधित निकाय के समक्ष रखेगा। कुलपति, इसके साथ ही साथ इस बाबत् बनाए जाने के लिए अपेक्षित यथास्थिति परिनियमों, अध्यादेशों, नियमों या विनियमों के प्रारूप को विचारार्थ रख सकेगा।
8. कुलपति, उक्त प्रयोजन के लिए गठित चयन समिति की अनुशंसाओं पर तथा कार्यपालिक परिषद् के अनुमोदन के पश्चात्, विश्वविद्यालय शिक्षकों के लिए नियुक्तिकर्ता प्राधिकारी होगा।

9. अधिनियम की धारा 48 के अनुसार कुलपति सहायक रजिस्ट्रार की पदश्रेणी और उसके समकक्ष या ऊपर की पदश्रेणी के अधिकारियों के लिए तथा कार्यपालिक परिषद् के अनुमोदन के पश्चात् नियुक्तिकर्ता प्राधिकारी होगा।
10. (1) कुलपति का यह कर्तव्य तथा उत्तरदायित्व होगा कि वह यह सुनिश्चित करे कि विश्वविद्यालय के स्वास्थ्य विज्ञान शिक्षा के विभिन्न विभागों साथ ही साथ स्नातक और संबद्ध महाविद्यालयों के विभागों का इस अधिनियम के अधीन विरचित परिनियमों, अध्यादेशों, विनियमों तथा नियमों के उपबंधों के कठोर अनुपालन के साथ संधारण किया जाए।
(2) उसे विश्वविद्यालय के किसी भी शैक्षणिक तथा प्रशासनिक विभाग तथा विश्वविद्यालय द्वारा संधारित तथा प्रबंधित या संबद्ध अन्य संस्थाओं अथवा महाविद्यालयों का निरीक्षण तथा भ्रमण करने तथा शैक्षणिक/प्रशासनिक गुणवत्ता में सुधार के लिए ऐसी समुचित कार्रवाई, जैसी कि वह उचित समझे, करने का अधिकार होगा।
11. उसे कार्य परिषद् को, विश्वविद्यालय के प्रशासन की अधोसंरचना में परिवर्तन करने के सुझाव देने की शक्ति होगी जिसमें विश्वविद्यालय के शिक्षकों, अधिकारियों तथा कर्मचारियों के नए पदों का समापन, पुनःपदाभिधान तथा/या सृजन सम्मिलित है।
12. कुलपति को किसी सदस्य को एक सदस्य के रूप में अशोभनीय व्यवहार में संलिप्त होने के लिए प्राधिकरण, निकाय अथवा समिति के सम्मिलन से निलंबित करने तथा मामले को तदनुसार कुलाधिपति को संसूचित करने की शक्ति होगी।
13. कुलपति, विश्वविद्यालय के किसी कर्मचारी को, ऐसे कर्मचारी को सौंपे गए किसी विशेष कर्तव्य के लिए उसके द्वारा ऐसे अतिरिक्त कर्तव्य के निर्वहन पर जो कि कुलपति की राय में ऐसे भुगतानों का समर्थन करता है, कोई भत्ता स्वीकृत करने की शक्ति होगी।
परन्तु ऐसे भत्तों, ऐसे कर्मचारी के मूल वेतन के 6 ¼ % से अधिक नहीं होंगे।
14. (1) विश्वविद्यालय के उपबंधों के अनुसार अपने स्वयं के प्रवास कार्यक्रमों को अनुमोदित करना तथा अपने यात्रा भत्ता देयकों पर प्रतिहस्ताक्षर करना।
(2) यात्रा भत्ता देयकों पर प्रतिहस्ताक्षर करना तथा विश्वविद्यालय के अधिकारियों के क्षेत्राधिकार से परे कर्तव्य से अनुपस्थिति स्वीकृत करना।
15. प्रत्यायोजित शक्ति के अनुसार अवकाश प्रदान करना।

परिनियम क्रमांक – तीन

कुलाधिसचिव की सेवा के निबंधन तथा शर्तें और शक्तियां एवं कर्तव्य

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (कुलाधिसचिव की सेवा के निबंधन तथा शर्तें और शक्तियां एवं कर्तव्य) परिनियम, 2013 है।
2. **परिभाषा.**— इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
(क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;

(ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।

3. (1) कुलाधिसचिव, कुलपति की अनुशंसा पर कार्य परिषद् द्वारा नियुक्त किया जाएगा। यदि कार्य परिषद् कुल सचिव की अनुशंसा को स्वीकार नहीं करती है तो मामला कुलाधिपति को संदर्भित किया जाएगा जिस पर उसका निर्णय अंतिम होगा।
- (2) ऐसा व्यक्ति जिसने अधिकतम आयु पूर्ण नहीं की है तथा ऐसी अर्हता रखता है जैसी कि अधिनियम के अधीन कुलपति की नियुक्ति के लिये निर्धारित की गई है, कुलाधिसचिव के रूप में नियुक्त किया जाएगा।
- (3) कुलाधिसचिव की पदावधि कुलपति की पदावधि की सहविस्तारी होगी :

परन्तु कुलपति का पद, उसकी पदावधि की समाप्ति, मृत्यु, त्यागपत्र या अन्यथा के कारण रिक्त हो जाने की स्थिति में, कुलाधिसचिव उसके पश्चात् तब तक पद धारण कर सकेगा जब तक कि उसका उत्तराधिकारी पद न धारण कर ले किन्तु यह अवधि एक वर्ष से अधिक की नहीं होगी :

परन्तु यह और कि कुलपति के पद में रिक्ति होने के समय पद पर आसिन कुलाधिसचिव भी, यदि उसने कुलपति के रूप में नियुक्ति के लिये निर्धारित अधिकतम आयु पूर्ण न कर ली हो, कुलपति के रूप में नियुक्ति हेतु पात्र होगा।

4. कुलाधिसचिव विश्वविद्यालय का एक वैतनिक अधिकारी होगा तथा वह सरकार द्वारा समय-समय पर यथा नियत वेतनमान पर प्रतिमाह वेतन प्राप्त करेगा। वह विश्वविद्यालय के समान ग्रेड के अधिकारियों को समय-समय पर अनुज्ञेय दरों पर अन्य भत्तों का हकदार होगा।
5. कुलाधिसचिव ऐसे अवकाश, चिकित्सीय प्रतिपूर्ति अथवा चिकित्सीय प्रतिपूर्ति के बदले चिकित्सीय भत्ते और ऐसे अन्य विशेषाधिकारों का, जैसे कि विश्वविद्यालय द्वारा इसके पूर्णकालिक अधिकारियों को प्रदान किए गए हैं, भी हकदार होगा और उसी भांति अंशदायी भविष्य निधि के लाभों का भी हकदार होगा ;

परन्तु अंशदायी भविष्य निधि किसी ऐसे कुलाधिसचिव को अनुज्ञेय नहीं होगी जो अपनी नियुक्ति के पूर्व केन्द्र सरकार अथवा किसी राज्य सरकार की सेवा में था और जो कोई सेवानिवृत्ति अभिलाष जैसे कि पेंशन या उपदान या दोनों प्राप्त कर रहा हो, प्राप्त किया हो अथवा प्राप्त करने का हकदार हो गया हो :

परन्तु यह और कि गैर अंशदायी पेंशन निधि/सामान्य भविष्य निधि का लाभ ऐसे कुलाधिसचिव को उसके निकाय पर अनुज्ञेय होगा । भविष्य निधि से संबंधित कानूनी उपबंध, जहां तक कि वे विश्वविद्यालय द्वारा अंशदान से संबंध रखते हों, उसके सिवाय, ऐसे मामले में लागू होंगे।

6. कुलाधिसचिव ऐसे कर्तव्यों का निर्वहन तथा ऐसी शक्तियों का प्रयोग करेगा जैसी कि कुलपति द्वारा समय-समय पर समनुदेशित की जाएं।

परिनियम क्रमांक – चार

कुलसचिव की उपलब्धियां, सेवा की शर्तें, शक्तियां तथा कर्तव्य

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (कुलसचिव की उपलब्धियां, सेवा की शर्तें, शक्तियां तथा कर्तव्य) परिनियम, 2013 है।
2. **परिभाषा.**— इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—

- (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
- (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. (1) कोई भी व्यक्ति कुलसचिव के रूप में नियुक्ति हेतु तब तक पात्र नहीं होगा जब तक कि वह ऐसी शर्तें, जैसी कि अधिनियम की धारा 17 की उपधारा (2) के अनुसार कार्य परिषद् द्वारा समय-समय पर अवधारित की जाएं, धारण न करता हो।
- (2) कुलसचिव की नियुक्ति राज्य सरकार के किसी विभाग से प्रतिनियुक्ति पर की जाएगी। अतः उसकी उपलब्धियां तथा सेवा की शर्तें जिसमें अवकाश, वेतन, अवकाश वेतन, भत्ते, चिकित्सीय, भविष्य निधि, पेंशन, उपदान, सेवानिवृत्ति तथा अन्य अभिलाभ सम्मिलित हैं, राज्य सरकार के पैतृक विभाग द्वारा निर्धारित प्रतिनियुक्ति के निबंधनों द्वारा अवधारित किए जाएंगे। कुलसचिव का यह कर्तव्य होगा कि वह—
- (क) विश्वविद्यालय के अभिलेखों, निधियों (आहरण तथा संवितरण), सामान्य मुद्रा और ऐसी अन्य संपत्तियों का अभिरक्षक हो, जैसी कि कार्यपरिषद् उसके प्रभार में सौंपे ;
- (ख) अधिनियम के अधीन नियुक्त विश्वविद्यालय के अधिकरण, कार्यपरिषद्, विद्या परिषद्, शैक्षणिक योजना तथा मूल्यांकन बोर्ड तथा किन्हीं अन्य निकायों या समितियों का, जिसको कि सचिव के रूप में उसे कार्य करना होता है, सम्मिलन आयोजित करने वाले समस्त सूचना पत्र जारी करेगा ;
- (ग) अधिनियम के अधीन नियुक्त विश्वविद्यालय के अधिकरण, कार्य परिषद्, विद्या परिषद्, शैक्षणिक योजना तथा मूल्यांकन बोर्ड तथा किन्हीं अन्य निकायों या समितियों का, जिसके कि सचिव के रूप में उसे कार्य करना होता है, समस्त सम्मिलनों का अभिलेख रखेगा;
- (घ) कुलपति की अनुमति से विश्वविद्यालय, अधिकरण, कार्य परिषद्, विद्या परिषद् तथा शैक्षणिक योजना तथा मूल्यांकन बोर्ड का आधिकारिक पत्र व्यवहार करेगा ;
- (ङ) कुलाधिपति तथा कुलपति को निम्नलिखित प्रदाय करेगा —
- (एक) जैसे ही अनुमोदित एजेन्डा जारी हो, विश्वविद्यालय के प्राधिकारियों के सम्मिलन के एजेन्डा की प्रतियां ;
- (दो) ऐसे सम्मिलन के आयोजन के एक पखवाड़े के भीतर विश्वविद्यालय के प्राधिकारियों के सम्मिलन के कार्यवृत्त ;
- (तीन) ऐसे अन्य पत्र एवं जानकारी जैसी कि कुलपति द्वारा समय-समय पर उसे सौंपे जाने के लिये निर्देशित की जाए।
4. कुलपति के नियंत्रण एवं अनुमोदन के अध्यधीन रहते हुए, कुलसचिव को विश्वविद्यालय के तृतीय श्रेणी तथा चतुर्थ श्रेणी के कर्मचारिवृन्द को नियुक्त करने की शक्ति होगी और उसी तरह वह उन पर अनुशासनिक नियंत्रण का प्रयोग करेगा। कुलसचिव के विनिश्चय से व्यथित व्यक्ति द्वारा कोई अपील ऐसे विनिश्चय की संसूचना की तारीख से तीस दिन के भीतर, कुलपति को की जाएगी, जिसका विनिश्चय अंतिम होगा।

5. कुलसचिव, किसी प्राधिकारी अथवा निकाय के, जिसका कि वह सचिव है, अध्यक्ष द्वारा इच्छा व्यक्त किए जाने पर, ऐसे प्राधिकारी या निकाय के सम्मिलन में अभिभाषण दे सकेगा।
6. कुलसचिव, ऐसी सहायता प्रदान करेगा जिसकी कि अपने आधिकारिक कर्तव्यों के निर्वहन में कुलपति द्वारा वांछा की जाए।
7. कुलसचिव ऐसी अन्य शक्तियों का प्रयोग तथा ऐसे अन्य कर्तव्यों का निर्वहन करेगा जैसे कि इस अधिनियम के द्वारा या उसके अधीन समय-समय पर कुलपति द्वारा विहित किए जाएं या उसे सौंपे जाएं।
8. यदि किसी समय अभ्यावेदन किए जाने पर या अन्यथा तथा ऐसी जांच किए जाने के पश्चात् जैसी कि आवश्यक समझी जाए, कुलपति को यह प्रतीत हो कि कुलसचिव अधिनियम द्वारा उस पर अधिरोपित कर्तव्यों का पालन नहीं कर रहा है अथवा विश्वविद्यालय के हित के विपरीत कार्य कर रहा है अथवा विश्वविद्यालय के कामकाज का प्रबंध करने में अक्षम है, तो कुलपति को नियमानुसार त्वरित कार्रवाई करनी चाहिए जिसमें पैतृक विभाग को सेवाओं की वापसी किया जाना सम्मिलित है।
9. कुलसचिव, प्राधिकारियों, निकायों तथा समितियों द्वारा समय-समय पर अनुमोदित किए गए परिनियमों, अध्यादेशों तथा विनियमों की पुस्तिका प्रकाशित तथा अद्यतन कराएगा तथा उन्हें प्राधिकारियों के सम्बन्धित सदस्यों तथा विश्वविद्यालय के अधिकारियों को उपलब्ध कराएगा।
10. (1) कुलसचिव, प्रशासन में सुधार के संबंध में शिकायतें तथा सुझाव प्राप्त करेगा तथा उन पद समुचित कार्रवाई हेतु कुलपति के परामर्श से विचार करेगा।
 (2) कुलसचिव का यह भी कर्तव्य होगा वह विश्वविद्यालय के भवनों के दक्षतापूर्ण अनुरक्षण की देख रेख करे तथा विश्वविद्यालय के विभिन्न विभागों की स्थान सुविधा के लिये स्थल तथा शिक्षकों, अधिकारियों तथा कर्मचारियों के आवास के लिये स्थान का आवंटन करे।
 (3) वह विश्वविद्यालय के शिक्षकों, अधिकारियों तथा गैर शैक्षणिक कर्मचारियों के सेवा अभिलेखों के संधारण के लिये उत्तरदायी होगा।
 (4) वह कुलपति के अनुमोदन से, परिनियमों तथा अधिनियम में विहित रीति में विश्वविद्यालय के शिक्षकों, अधिकारियों तथा गैर-शैक्षणिक कर्मचारिवृंद के सभी वर्गों की भर्ती/पदोन्नति के लिए आवश्यक प्रशासनिक कदम उठाएगा।

परिनियम क्रमांक-पांच

परीक्षा नियंत्रक (कुलसचिव मूल्यांकन) की शक्तियां तथा कर्तव्य

1. **संक्षिप्त नाम.-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (परीक्षा नियंत्रक (कुलसचिव मूल्यांकन) की शक्तियां तथा कर्तव्य) परिनियम, 2013 है।
2. **परिभाषा.-** इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,-
 (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. (1) नियंत्रक, परीक्षा तथा परीक्षण आयोजित करने तथा परिणाम की घोषणा के लिए आवश्यक सभी व्यवस्थाएं करने के लिए उत्तरदायी होगा। नियंत्रक का यह दायित्व होगा कि वह कुलपति के परामर्श से :-

- (क) परीक्षाओं का अग्रिम कलेंडर तैयार करे तथा घोषित करे ;
 - (ख) प्रश्न पत्रों के मुद्रण की व्यवस्था करे ;
 - (ग) परीक्षा में अभ्यर्थियों के प्रदर्शन के उचित मूल्यांकन की व्यवस्था करे तथा परिणाम तैयार कराए ;
 - (घ) परीक्षाओं तथा अन्य परीक्षणों के परिणामों के समय पर प्रकाशन की व्यवस्था कराए ;
 - (ङ) कदाचार की स्थिति में या यदि परिस्थितियों की यही मांग हो तो, संपूर्ण परीक्षाओं या उसके किसी भाग को स्थगित या निरस्त करे तथा कदाचार किए जाने के आरोपी किसी व्यक्ति अथवा व्यक्तियों के किसी समूह या किसी महाविद्यालय या किसी संस्था के विरुद्ध अनुशासनात्मक कार्रवाई करे अथवा कोई सिविल या आपराधिक कार्यवाही प्रारंभ करे ;
 - (च) जहां कहीं भी आवश्यक हो अभ्यर्थियों, प्रश्नपत्र निर्धारकों, परीक्षकों, संचालकों अथवा परीक्षाओं से संबंधित तथा परीक्षाओं के संबंध में कदाचार के दोषी पाए गए किन्हीं अन्य व्यक्तियों के विरुद्ध अनुशासनिक कार्रवाई करे ;
 - (छ) समय-समय पर विश्वविद्यालय की परीक्षाओं के परिणामों का पुनर्विलोकन करे तथा उस पर विद्यापरिषद् को प्रतिवेदन अग्रेषित करे।
- (2) परीक्षा नियंत्रक ऐसी अन्य शक्तियों का प्रयोग तथा ऐसे अन्य कृत्यों का निर्वहन करेगा जैसे कि विहित किए जाएं अथवा समय-समय पर कुलपति द्वारा उसे सौंपे जाएं।
 - (3) यदि किसी समय अभ्यावेदन किए जाने पर या अन्यथा तथा ऐसी जांच करने के पश्चात् जैसी कि आवश्यक समझी जाएं कुलपति को यह प्रतीत होता है कि परीक्षा नियंत्रक अधिनियम द्वारा उस पर अधिरोपित किसी कर्तव्य का निर्वहन नहीं कर रहा है या विश्वविद्यालय के हित के विपरीत कार्य कर रहा है या विश्वविद्यालय के कारबार का प्रबंध करने में अक्षम है तो कुलपति को कार्य परिषद के परामर्श से त्वरित कार्रवाई करना चाहिए जिसमें पैतृक विभाग को सेवाओं की वापसी किया जाना सम्मिलित है।
4. परीक्षा नियंत्रक, समस्त घटकों को सम्मिलित करते हुए, जिसमें परीक्षार्थी का डाटाबेस, पूर्वापेक्षित की पूर्णता (उपस्थिति, फीस आदि), प्रश्न पत्र निर्धारक, प्रश्न पत्र प्रदाय, अंकों का मूल्यांकन, (आंतरिक परीक्षा को सम्मिलित करते हुए), परिणाम का तैयार किया जाना तथा आवश्यकतानुसार अन्य मापदण्ड सम्मिलित होंगे, परीक्षा प्रणाली के अधिकतम स्वचलन के लिए उचित हार्डवेयर तथा सॉफ्टवेयर विकसित करने के लिये व्यवस्था करेगा।
 5. परीक्षा नियंत्रक अंतरिम उपाधियां, उपाधियों की प्रतिलिपि तथा स्वर्ण पदक प्रमाण-पत्र सक्षम प्राधिकारी द्वारा सम्यक् रूप से हस्ताक्षरित कोई अन्य ऐसे दस्तावेज तैयार कराने के लिए उत्तरदायी होगा।
 6. पूर्व परीक्षा अनुभाग का संचालन निम्नानुसार होगा:—
 - (एक) परीक्षा का वार्षिक कलेंडर तैयार करना ;
 - (दो) परीक्षा समय-सारिणी तथा फीस की अग्रिम अधिसूचना ;
 - (तीन) परीक्षा के लिए आवेदन प्राप्त करना तथा उसे अद्यतन करना;
 - (चार) परीक्षा फार्म तथा परीक्षा फीस का सत्यापन ;
 - (पांच) उपस्थिति का सत्यापन ;
 - (छह) आंतरिक मूल्यांकन के अंकों का सत्यापन ;

- (सात) संक्षेपिकाएं (स्नोपसिस) तथा शोध पत्र (थीसिस) प्राप्त करना और उसका मूल्यांकन कराना ;
- (आठ) समस्त पूर्व अर्हताओं के पूर्ण हो जाने के पश्चात् प्रवेश पत्र मुद्रित कराना ।
- (नौ) परीक्षा केन्द्र की पहचान तथा प्रेक्षक दस्ते का गठन ;
- (दस) शिक्षकों/परीक्षकों का संपूर्ण डाटाबेस तैयार करना और उसे निरंतर अद्यतन करना ;
- (ग्यारह) संकायवार शिक्षकों/ परीक्षकों के लिए विलक्षण पहचान (यूनिक आई डी) सृजित करना ;
- (बारह) परीक्षकों की नियुक्ति;
- (तेरह) परीक्षक बैंक का निर्माण और उसे निरंतर अद्यतन करना ;
- (चौदह) प्रश्न बैंक का निर्माण और उसे निरंतर अद्यतन करना ।

परिनियम क्रमांक-छह

विद्यार्थी कल्याण संकायाध्यक्ष- सेवा के निबंधन तथा शर्तें, शक्तियां तथा कर्तव्य

1. **संक्षिप्त नाम.-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विद्यार्थी कल्याण संकायाध्यक्ष- सेवा के निबंधन तथा शर्तें, शक्तियां तथा कर्तव्य) परिनियम, 2013 है ।
2. **परिभाषा.-** इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं ।
3. विद्यार्थी कल्याण संकायाध्यक्ष तीन वर्ष की पदावधि के लिये नियुक्त किया जाएगा तथा वह पुनर्नियुक्ति के लिये पात्र होगा :

परंतु वह अधिवार्षिकी आयु पूर्ण कर लेने पर पद पर नहीं रह जाएगा:

परंतु यह और कि उसकी तीन वर्ष की पदावधि की समाप्ति के पूर्व, कार्य परिषद्, कुलपति से प्रतिवेदन प्राप्त होने पर, विद्यार्थी कल्याण संकायाध्यक्ष की नियुक्ति को उसे सुनवाई का युक्तियुक्त अवसर प्रदान करने के पश्चात् समाप्त कर सकेगी, यदि उसका यह समाधान हो जाता है कि विद्यार्थी कल्याण संकायाध्यक्ष का आगे बना रहना उस उद्देश्य के लिये, जिसके लिए वह नियुक्त किया गया है या विश्वविद्यालय के हितों के लिये अपायकर होगा ।
4. धारा 18 की उपधारा (2) के अनुसार, पूर्णकालिक वैतनिक अधिकारी की अनुपलब्धता की स्थिति में शासकीय चिकित्सा महाविद्यालय के सह-आचार्य की पदश्रेणी से अनिम्न कोई शिक्षक, ऐसे शिक्षक के रूप में उसके कर्तव्यों के अतिरिक्त, कार्य परिषद् द्वारा विनिश्चित किए गए उपयुक्त भत्तों के भुगतान के साथ कुलपति की अनुशंसा पर कार्य परिषद् द्वारा विद्यार्थी कल्याण संकायाध्यक्ष नियुक्त किया जा सकेगा ।
5. यदि विद्यार्थी कल्याण के संकायाध्यक्ष की नियुक्ति विश्वविद्यालय/संबद्ध महाविद्यालयों के अध्यापकों में से पूर्णकालिक आधार पर हुई है तो उसका अपने मूल पद पर धारणाधिकार बना रहेगा तथा वह उन सभी लाभों के लिए पात्र होगा जो कि विद्यार्थी कल्याण संकायाध्यक्ष के रूप में उसकी नियुक्ति के लिये उसे अन्यथा उद्भूत होते ।
6. विद्यार्थी कल्याण संकायाध्यक्ष, उन अवकाश, अवकाश वेतन, भत्तों तथा भविष्य निधि, चिकित्सीय तथा अन्य लाभों का हकदार होगा जो कि उसे पैतृक संस्था में अनुज्ञेय हों ।

7. (1) विद्यार्थी कल्याण संकायाध्यक्ष, विश्वविद्यालय छात्र संघ का सलाहकार-सह- कोषाध्यक्ष तथा विश्वविद्यालय में सूचना ब्यूरो तथा नियोजन ब्यूरो का प्रधान होगा।
- (2) यदि कार्यपरिषद्, विद्यापरिषद् अथवा सभा (कोर्ट) ऐसी वांछा करते हैं तो विद्यार्थी कल्याण संकायाध्यक्ष संबंधित प्राधिकारी के किसी सम्मिलन में उपस्थित रहेगा जब उसमें विद्यार्थी कल्याण से संबंधित मामले विचार में आने वाले हों।
- (3) कुलपति के नियंत्रण के अधधीन रहते हुए विद्यार्थी कल्याण संकायाध्यक्ष-
 - (क) छात्रों के लिए उपयुक्त आवास संबंधी सुविधाओं को सुनिश्चित करने के लिये व्यवस्था करेगा ;
 - (ख) कुलपति द्वारा अनुमोदित योजनाओं के अनुसार छात्रों के नियोजन के लिये व्यवस्था करेगा;
 - (ग) छात्रों के कल्याण के बारे में छात्रों के अभिभावकों को संसूचित करेगा;
 - (घ) छात्रों के लिये यात्रा सुविधाएं प्राप्त करेगा ;
 - (ङ) छात्रों को छात्रवृत्ति, अध्ययन वृत्तियां आदि प्राप्त करने में, छात्रों की, उन्हें उससे संबंधित जानकारी प्रदान करके सहायता करेगा ;
 - (च) ऐसे अन्य कर्तव्यों का निर्वहन करेगा जैसे कि कुलपति द्वारा उसे समय-समय पर सौंपे जाएं।

परिनियम क्रमांक-सात

वित्त नियंत्रक की शक्तियां तथा कर्तव्य

(धारा 36(ड) के अधीन)

1. **संक्षिप्त नाम.-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय वित्त नियंत्रक की शक्तियां तथा कर्तव्य) परिनियम, 2013 है।
2. **परिभाषा.-** इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. वित्त नियंत्रक, कुलपति के सीधे नियंत्रण एवं पर्यवेक्षण के अधीन कार्य करेगा। वह विश्वविद्यालय के वित्तीय प्रबंध तथा लेखाओं के रखरखाव के लिए प्रमुख प्रभारी प्रशासनिक अधिकारी होगा वह,-
 - (क) विश्वविद्यालय की निधियों और वित्त, परिसंपत्तियों और आस्तियों तथा अभिदायों और न्यासों का सामान्य प्रशासन करने ;
 - (ख) समस्त प्राप्तियों तथा संवितरण को प्राप्त करने, आय को संग्रहीत करने, भुगतानों के संवितरण तथा विश्वविद्यालय के लेखाओं का प्रबंध करने,
 - (ग) टी.डी.एस/पी.टी./जी.पी.एफ/जी.आई.एस आदि जैसे समुचित कटौतियों के साथ वेतन देयकों तथा मजदूरी सहित समस्त देयकों का संसाधन (प्रोसेसिंग) करने तथा बिना किसी अनुचित विलंब के उनका भुगतान सुनिश्चित करने ;

- (घ) स्कंध पंजी (स्टाक रजिस्टर) तथा समस्त लेखा पुस्तिकाओं का संधारण करने तथा उन्हें नियमित अंतराल पर अद्यतन रखने;
- (ङ) विश्वविद्यालय के वित्त को पुनर्विलोकित करने के लिए आवधिक लेखा विवरणियां तैयार करने तथा उन्हें विचारार्थ कुलपति तथा वित्त समिति को प्रस्तुत करने ;
- (च) विश्वविद्यालय की ओर से समस्त धनादेशों पर हस्ताक्षर करने ;
- (छ) वित्त तथा लेखा समिति तथा वित्त तथा लेखा समिति द्वारा नियुक्त समितियों के सम्मिलनों के कार्यवृत्त का रखरखाव करने ;
- (ज) आय के संग्रहण को प्रगति पर नजर रखने और नियमित प्रतिवेदन प्रस्तुत करने और संग्रहण के लिये अपनाए जाने वाली पद्धतियां कुलपति को प्रस्तावित करने;
- (झ) वित्त समिति द्वारा यथा अधिमानित वार्षिक बजट तैयार करने और उसे और अंकेक्षण रिपोर्ट को अधिनियम के उपबंधों के अनुसार कार्य परिषद् के माध्यम से अधिसभा के समक्ष प्रस्तुत करने;
- (ञ) विश्वविद्यालय के लेखाओं का नियमित अंकेक्षण कराने, वार्षिक लेखा विवरणियां तथा वार्षिक लेखा विवरणियों से संबंधित अंकेक्षण रिपोर्ट, आंतरिक अंकेक्षण रिपोर्ट और वार्षिक तुलन पत्र तैयार करने और उसे राज्य सरकार को प्रस्तुत करने ;
- (ट) विश्वविद्यालय के किन्हीं भी उद्देश्यों को अग्रसर करने के लिये कार्य परिषद् के अनुमोदन से निधियों, परिसम्पत्तियों तथा निवेशों, जिसमें कि न्यास एवं अभिदाय संपत्ति सम्मिलित है, को धारित एवं प्रबंधित करने ;
- (ठ) यह कि किसी वर्ष के लिये आवर्ती तथा अनावर्ती व्यय के लिए विश्वविद्यालय द्वारा निर्धारित सीमाओं में वृद्धि न हो और यह सभी आवंटन उन्हीं प्रयोजनों के लिए खर्च किए गए हैं जिसके लिए वे प्रदान या आवंटित किए गए थे, सुनिश्चित करने ;
- (ड.) नकद तथा बैंक अतिशेष तथा निवेशों पर सतत् नजर रखने तथा कुलपति को रिपोर्ट करने ;
- (ढ) यह कि भवनों, भूमि, उपकरण तथा मशीन की पंजियां अद्यतन अनुरक्षित हैं और यह कि विश्वविद्यालय के सभी कार्यालयों, महाविद्यालयों, कर्मशालाओं तथा भंडारों में के उपकरण और उपभोगी सामग्रियों को लेते हुए समस्त मदों और स्कंधों का नियमित रूप से सत्यापन सुनिश्चित करने ;
- (ण) विश्वविद्यालय के किसी शैक्षणिक सदस्य द्वारा किए गए अनधिकृत व्यय या अन्य वित्तीय अनियमितताओं के लिये स्पष्टीकरण मांगने हेतु कुलपति को प्रस्तावित करने ;
- (त) किसी विशिष्ट मामले में किसी गैर-शैक्षणिक सदस्य द्वारा अनधिकृत व्यय या अनियमितताओं के लिये स्पष्टीकरण मांगने हेतु कुलसचिव को प्रस्तावित करने तथा दोषी व्यक्तियों के विरुद्ध अनुशासनिक कार्रवाई की अनुशंसा करने ;
- (थ) विश्वविद्यालय के किसी कार्यालय, क्षेत्रीय केंद्र, महाविद्यालय, विश्वविद्यालय के विभाग अथवा विश्वविद्यालय की संस्था से, वित्तीय उत्तरदायित्वों के समुचित निर्वहन के लिए कोई ऐसी जानकारी या विवरणियां जैसे कि आवश्यक समझी जाएं, बुलानेके लिये उत्तरदायी होगा।

4. यदि किसी समय अभ्यावेदन किए जाने पर या अन्यथा तथा ऐसी जांच करने के पश्चात् जैसी की आवश्यक समझी जाए, कुलपति को यह प्रतीत होता है कि वित्त अधिकारी (नियंत्रक) अधिनियम द्वारा उस पर अधिरोपित किन्हीं कर्तव्यों का निर्वहन नहीं कर रहा है अथवा विश्वविद्यालय के हितों के विरुद्ध कार्य कर रहा है अथवा विश्वविद्यालय के कामकाज का प्रबंध करने में अक्षम है, तो कुलपति को कार्य परिषद के परामर्श से तुरंत कार्रवाई करने चाहिए जिसमें पैतृक विभाग को सेवाओं की वापसी किया जाना सम्मिलित है।
5. ऐसी अन्य शक्तियों का प्रयोग तथा ऐसे अन्य कर्तव्यों का निर्वहन तथा ऐसे अन्य कृत्यों का पालन करेगा जैसे कि समय-समय पर कुलपति द्वारा सौंपे जाएं या परिनियमों, अध्यादेशों अथवा विनियमों द्वारा विहित किए जाएं।

परिनियम क्रमांक—आठ

क्षेत्रीय समन्वय केन्द्र का गठन, शक्तियां तथा कर्तव्य

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (क्षेत्रीय समन्वय केन्द्र का गठन, शक्तियां तथा कर्तव्य) परिनियम, 2013 है।
2. **परिभाषा.**— इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्र. 19 सन् 2011) की धारा 6 के अधीन विश्वविद्यालय का क्षेत्राधिकार संपूर्ण मध्यप्रदेश पर होगा। अधिनियम की धारा 6 के उपबंधों को प्रभावी बनाने तथा विश्वविद्यालय के क्रियाकलापों के सुचारु संचालन तथा विश्वविद्यालय के छात्रों तथा संस्थाओं की भौगोलिक सुविधा के प्रयोजन से क्षेत्रीय केन्द्रों का गठन किया जाएगा। क्षेत्रीय केन्द्र पांच स्थानों, जबलपुर, भोपाल, इंदौर, ग्वालियर तथा रीवा में होंगे। विश्वविद्यालय, जब कभी भी आवश्यकता हो, क्षेत्रीय केन्द्रों का विस्तार कर सकेगा।
4. क्षेत्रीय केन्द्रों का क्षेत्राधिकार निम्नानुसार होगा :—

क्षेत्रीय केन्द्र

1. भोपाल
2. ग्वालियर
3. इंदौर
4. जबलपुर
5. रीवा

क्षेत्राधिकार

- भोपाल संभाग—नर्मदापुरम संभाग
- ग्वालियर संभाग—चंबल संभाग
- इंदौर संभाग—उज्जैन संभाग
- जबलपुर संभाग—सागर संभाग
- रीवा संभाग—शहडोल संभाग

5. क्षेत्रीय केन्द्र की संरचना :-
- | | | |
|-----|--------------------|--|
| (क) | मुख्य समन्वयक - | संकायाध्यक्ष (पदेन) |
| (ख) | कार्यपालक समन्वयक- | एक प्राध्यापक |
| (ग) | संरक्षक - | एक सहायक प्राध्यापक |
| (घ) | सहायक समन्वयक - | तीन सहायक प्राध्यापक (चिकित्सा एवं दंत
- एक,
आयुष - एक, परिचर्या एवं सहचिकित्सा
- एक) |
- (ङ) कार्यालय अधीक्षक
(च) कम्प्यूटर आपरेटर
(छ) डाटाएन्ट्री ऑपरेटर
(ज) चतुर्थ श्रेणी
(झ) कार्यपालक समन्वयक, संरक्षक तथा सहायक समन्वयक को उनके मूल कार्य के अलावा अंशकालिक कर्तव्य अधिकारी के रूप में नियुक्त किया जाएगा।
(ञ) कार्यपालक समन्वयक, संरक्षक तथा सहायक समन्वयक मुख्य समन्वयक के परामर्श से कुलपति द्वारा नाम निर्देशित किए जाएंगे।
(ट) दल का कार्यकाल नियुक्ति तिथि से दो वर्ष के लिए होगा तथा एक वर्ष के लिए बढ़ाया जा सकेगा, किसी असंतोषजनक दशा में कुलपति क्षेत्रीय केन्द्रों के किन्हीं भी व्यक्तियों को हटा सकेगा।
(ठ) सलाहकार परिषद् :- क्षेत्रीय परिक्षेत्र के विश्वविद्यालय के अध्ययन बोर्ड के सदस्यों से मिलकर बनने वाली एक सलाहकार परिषद् होगी।
(ड) जब कभी भी आवश्यक हो, मुख्य समन्वयक द्वारा सलाहकार परिषद् का सम्मिलन आहूत किया जाएगा।
6. क्षेत्रीय समन्वय केन्द्र की शक्तियां एवं कर्तव्य, -
- (1) क्षेत्रीय मुख्य समन्वयक, केन्द्र के समग्र अधीक्षण तथा कुलपति द्वारा क्षेत्रीय मुख्य समन्वयक को न्यस्त उत्तरदायित्वों के प्रभावी निर्वहन के लिए उत्तरदायी होगा ;
 - (2) क्षेत्रीय कार्यपालक समन्वयक, विश्वविद्यालय से संबंधित सभी मामलों के संबंध में विश्वविद्यालय की नीतियों के अनुसार क्षेत्रीय परिधि के अधीन संस्थाओं से जानकारी की संसूचना के लिए उत्तरदायी होगा। वह, संस्था के प्राधिकारियों द्वारा निवेदन किए जाने पर, विश्वविद्यालय के प्राधिकारियों द्वारा यथा विनिश्चित भुगतान पर विश्वविद्यालय के मामलों से संबंधित विश्वविद्यालय की वेबसाईट पर उपलब्ध समस्त जानकारी मुहैया कराएगा ;
 - (3) क्षेत्रीय कार्यपालक समन्वयक विश्वविद्यालय प्रशासन से संबंधित सामग्री (उदाहरणार्थ-नामांकन फार्म, परीक्षा फार्म आदि) प्राप्त करेगा तथा वितरित करने की व्यवस्था करेगा ;
 - (4) क्षेत्रीय कार्यपालक समन्वयक क्षेत्र में केन्द्रीय सहायता कार्यक्रम (सी ए पी) का पर्यवेक्षण करेगा। वह, उस संस्था के संकायाध्यक्ष/प्राचार्य के परामर्श से, जहां कि परीक्षा नियंत्रक के मार्गदर्शन के अधीन सी ए पी आयोजित किया जा रहा है, स्थान, जनशक्ति, लेखन सामग्री, संचार तथा अन्य सुविधाओं के विषय में सुविधाओं की उपलब्धता सुनिश्चित करेगा ;
 - (5) क्षेत्रीय कार्यपालक समन्वयक जहां कहीं भी आवश्यक हो, प्रश्न पत्र निर्धारण करने के फार्म को निष्पादित करने में परीक्षा नियंत्रक की सहायता करेगा ;
 - (6) क्षेत्रीय कार्यपालक समन्वयक, प्रायोगिक परीक्षक/व्यवहारिक मूल्यांकनकर्ता द्वारा रिपोर्ट न करने की दशा में, समन्वयक, परीक्षा नियंत्रक के परामर्श से परीक्षकों के पैनल में से परीक्षक/मूल्यांकनकर्ता की वैकल्पिक व्यवस्था, माननीय कुलपति के अनुमोदनार्थ प्रस्तावित करेगा। क्षेत्रीय केन्द्र, क्षेत्रीय केन्द्र के सुचारु कार्यकरण के लिए विश्वविद्यालय अध्ययन बोर्ड के स्थानीय सदस्यों का सहयोग प्राप्त कर सकता है ;
 - (7) जहां केन्द्र स्थित है वहां क्षेत्रीय मुख्य समन्वयक तथा कार्यपालक समन्वयक एवं संयुक्त खाता धारित करेंगे;
 - (8) क्षेत्रीय कार्यपालक विश्वविद्यालय के वित्त नियंत्रक तथा परीक्षा नियंत्रक के परामर्श से परीक्षकों के यात्रा भत्ता/दैनिक भत्ता देयकों तथा पारिश्रमिक के भुगतान की व्यवस्था करेगा;
 - (9) क्षेत्रीय कार्यपालक समन्वयक विश्वविद्यालय की कार्यशाला/प्रशिक्षण तथा अन्य शैक्षणिक गतिविधियों के संबंध में समस्त जानकारी रखेगा और उसका प्रचार करेगा तथा अध्यापक प्रशिक्षण कार्यक्रम तथा अन्य शैक्षणिक गतिविधियों को संचालित करने में सहायता करेगा;
 - (10) क्षेत्रीय कार्यपालक समन्वयक विधिक प्रकरणों में कुलसचिव की सहायता करेगा।
7. (1) क्षेत्रीय कार्यपालक समन्वयक ऐसे कार्यों तथा उत्तरदायित्वों का निर्वहन करने के लिए भी उत्तरदायी होगा जैसे कि उसे कुलपति द्वारा समय-समय पर सौंपे जाएं;
- (2) क्षेत्रीय कार्यपालक समन्वयक से मुख्य समन्वयक के अनुमोदन उपरान्त उपकेन्द्र के कार्यकरण की "त्रैमासिक रिपोर्ट" कुलपति को प्रस्तुत करने की अपेक्षा की जाएगी;

- (3) क्षेत्रीय कार्यपालक समन्वयक उप केन्द्र की "सलाहकार परिषद्" का सदस्य सचिव होगा तथा इसके सम्मिलनों को आयोजित करने तथा उनके कार्यवृत्त को यदि अनुमोदित किए गए हो तो, अभिलिखित किए जाने के लिए उत्तरदायी होगा;
- (4) क्षेत्रीय कार्यपालक समन्वयक संस्थाओं के प्रमुख की सहायता से अधीक्षक, सहायक अधीक्षक, परीक्षक की व्यवस्था करेगा तथा उड़नदस्ता दल की प्रतिनियुक्ति करेगा;
8. (1) क्षेत्रीय केन्द्र विश्वविद्यालय से संबद्ध शासकीय चिकित्सा महाविद्यालय के परिसर में विश्वविद्यालय के समाधानप्रद रूप में संकायाध्यक्ष द्वारा उपलब्ध कराई गई जगह पर अवस्थित होगा।
- (2) क्षेत्रीय मुख्य तथा कार्यपालक समन्वयक, समयबद्ध क्रियाकलाप जैसे शैक्षणिक कलेंडर तथा परीक्षा संबंधी कार्य के कार्यक्रम का कड़ाई से पालन सुनिश्चित करेंगे।
- (3) क्षेत्रीय मुख्य तथा कार्यपालक समन्वयक विश्वविद्यालय द्वारा विनियम तथा अध्यादेशों द्वारा समय-समय पर उसे सौंपी गई शक्तियों का प्रयोग करेगा।
9. (1) जब भी कभी आवश्यक हो, संबद्ध महाविद्यालयों/ संस्थाओं के लिपिकवर्गीय /कर्मचारिवृन्द/शैक्षणिक कर्मचारिवृन्द कुलपति के आदेश द्वारा क्षेत्रीय केन्द्र में प्रतिनियुक्त किये जा सकेंगे;
- (2) क्षेत्रीय केन्द्र आवश्यक फर्नीचर, फैंक्स, दूरभाष, इंटरनेट, प्रिन्टर, स्केनर, इन्वर्टर, यूपीएस, लेखन सामग्री से सुसज्जित होंगे और कोई अन्य सुविधा जब भी कभी आवश्यक हो, विश्वविद्यालय द्वारा उपलब्ध कराई जाएगी;
10. (1) क्षेत्रीय केन्द्र के शैक्षणिक तथा गैर शैक्षणिक कर्मचारिवृन्द का मानदेय तथा पारिश्रमिक विश्वविद्यालय द्वारा समय-समय पर बनाए गए अध्यादेशों तथा विनियमों के अनुसार होगा;
- (2) क्षेत्रीय केन्द्र को ऐसे अन्य सभी कर्तव्यों का निर्वहन करना होगा जैसे कि समय-समय पर कुलपति द्वारा विनिश्चित किए जाए;
- (3) समस्त क्षेत्रीय केन्द्र कुलपति के सीधे प्रशासन के अधीन होंगे।

परिनियम क्रमांक-नौ

विद्यापरिषद् की स्थायी समिति

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विद्यापरिषद् की स्थायी समिति) परिनियम, 2013 है।
2. **परिभाषा.**— इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. धारा 28 की उपधारा (2) के अधीन गठित की जाने वाली स्थायी समिति निम्नलिखित सदस्यों से मिलकर बनेगी:—
 - (क) कुलपति, और
 - (ख) सभी संकायों के संकायाध्यक्ष
4. कुलसचिव समिति के सचिव के रूप में कार्य करेगा।
5. कुलपति शोध तथा शैक्षणिक प्रयोजन के लिए तीन से अनधिक ऐसे अन्य व्यक्तियों को जिन्हें कि वह उचित समझे, आमंत्रित कर सकेगा।
6. समिति के सम्मिलन कुलपति के निर्देशन के अधीन आयोजित किए जाएंगे।
7. स्थायी समिति का यह दायित्व होगा कि वह संबंधित संकाय के परामर्श से परीक्षाओं की समानता तथा ऐसे अन्य मामलों पर जैसे कि विद्यापरिषद् कार्य परिषद् अथवा कुलपति द्वारा उसे निर्दिष्ट किए जाएं, परामर्श प्रदान करे।
8. अधिनियम तथा परिनियमों के उपबंधों के अध्याधीन रहते हुए समिति, विद्या परिषद् द्वारा उसे निर्दिष्ट अन्य मामलों को भी निपटा सकती है, ऐसे मामले में, जहां कि स्थायी समिति किसी मामले का निपटारा करती है, मामला, विद्या परिषद् को रिपोर्ट किया जाएगा।
9. कुलपति तथा कम से कम तीन संकायाध्यक्षों से सम्मिलन की गणपूर्ति होगी।

परिनियम क्रमांक—दस
विभिन्न औषध पद्धतियों में संकाय
(धारा 29 (1) देखिए)

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (औषध, दंतचिकित्सा, भारतीय औषध पद्धति, होम्योपैथी, सहचिकित्सा तथा सहविज्ञान संकाय) परिनियम, 2013 है।
2. **परिभाषा .**— इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. निम्नलिखित में से सभी या कोई संकाय होंगे, अर्थात्:—
 - (1) औषध संकाय
 - (क) स्नातकपूर्व विषय समूह हेतु:—
 - (एक) प्री-क्लिनिकल औषध विषयों में अध्ययन बोर्ड
 - (दो) पैरा-क्लिनिकल औषध विषयों में अध्ययन बोर्ड
 - (तीन) क्लिनिकल विषयों (औषध एवं सहबद्ध विषयों) में अध्ययन बोर्ड
 - (चार) क्लिनिकल विषयों (शल्यचिकित्सा एवं सहबद्ध विषयों) में अध्ययन बोर्ड
 - (ख) स्नातकोत्तर विषय समूह हेतु
 - (एक) प्री-क्लिनिकल औषध विषयों में अध्ययन बोर्ड
 - (दो) पैरा-क्लिनिकल औषध विषयों में अध्ययन बोर्ड
 - (तीन) क्लिनिकल विषयों (औषध एवं सहबद्ध विषयों) में अध्ययन बोर्ड
 - (चार) क्लिनिकल विषयों (शल्य चिकित्सा एवं सहबद्ध विषयों) में अध्ययन बोर्ड
 - (पांच) अतिविशिष्ट विषयों (औषध एवं सहबद्ध विषयों) में अध्ययन बोर्ड
 - (छह) अतिविशिष्ट विषयों (शल्य चिकित्सा एवं सहबद्ध विषयों) में अध्ययन बोर्ड
 - (2) दंत चिकित्सा संकाय
 - (क) स्नातक पूर्व विषय समूह हेतु
 - (एक) प्री-क्लिनिकल (दंत) विषयों में अध्ययन बोर्ड
 - (दो) क्लिनिकल (दंत) विषयों में अध्ययन बोर्ड
 - (ख) स्नातकोत्तर विषय समूह हेतु :—
 - (एक) प्री- क्लिनिकल (दंत) विषयों में अध्ययन बोर्ड
 - (दो) क्लिनिकल (दंत) विषयों में अध्ययन बोर्ड
 - (3) भारतीय औषध पद्धति संकाय
 - (क) आयुर्वेद में स्नातक पूर्व विषय समूह हेतु
 - (एक) प्री-क्लिनिकल आयुर्वेद विषयों में अध्ययन बोर्ड
 - (दो) पैरा-क्लिनिकल आयुर्वेद विषयों में अध्ययन बोर्ड
 - (तीन) क्लिनिकल आयुर्वेद विषयों में अध्ययन बोर्ड
 - (ख) आयुर्वेद में स्नातकोत्तर विषय समूह हेतु
 - (एक) प्री-क्लिनिकल आयुर्वेद विषयों में अध्ययन बोर्ड
 - (दो) पैरा-क्लिनिकल आयुर्वेद विषयों में अध्ययन बोर्ड
 - (तीन) क्लिनिकल आयुर्वेद विषयों में अध्ययन बोर्ड
 - (ग) यूनानी में स्नातक पूर्व विषय समूह हेतु
 - (एक) यूनानी विषयों में अध्ययन बोर्ड
 - (घ) यूनानी में स्नातकोत्तर विषय समूह हेतु
 - (एक) यूनानी विषयों में अध्ययन बोर्ड
 - (ङ.) प्राकृतिक चिकित्सा एवं योग विज्ञान में स्नातक पूर्व विषय समूह हेतु (प्राकृतिक चिकित्सा एवं योग विज्ञान स्नातक बी.एन.बाय.एस.)
 - (एक) स्नातक पूर्व विषय समूह हेतु :

- (च) प्राकृतिक चिकित्सा एवं योग विज्ञान में स्नातकोत्तर विषय समूह हेतु
- (छ) सिद्ध में स्नातक पूर्व विषय समूह हेतु (सिद्ध औषध एवं शल्य चिकित्सा बी.एस.एम.एस.)
- (एक) स्नातक पूर्व विषय समूह हेतु :
- (ज) सिद्ध में स्नातकोत्तर विषय समूह हेतु
- (4) होम्योपैथी संकाय
 - (क) होम्योपैथी में स्नातक पूर्व विषय समूह हेतु
 - (एक) प्री-क्लिनिकल होम्योपैथी विषयों में अध्ययन बोर्ड
 - (दो) पैरा-क्लिनिकल होम्योपैथी विषयों में अध्ययन बोर्ड
 - (तीन) क्लिनिकल होम्योपैथी विषयों में अध्ययन बोर्ड
 - (ख) होम्योपैथी में स्नातकोत्तर विषय समूह हेतु
 - (एक) होम्योपैथी विषयों में अध्ययन बोर्ड
 - (दो) होम्योपैथी सहबद्ध विषयों में अध्ययन बोर्ड
- (5) परिचर्या विज्ञान संकाय
 - (एक) स्नातक पूर्व विषय समूह हेतु
 - (दो) स्नातकोत्तर विषय समूह हेतु
- (6) सह चिकित्सा एवं सहबद्ध स्वास्थ्य विज्ञान संकाय
 - (एक) स्नातक पूर्व विषय समूह हेतु
 - (दो) स्नातकोत्तर विषय समूह हेतु

परिनियम क्रमांक— ग्यारह

संकाय का गठन, शक्तियां तथा कर्तव्य

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (संकाय का गठन, शक्तियां तथा कर्तव्य) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. प्रत्येक संकाय निम्नलिखित सदस्यों से मिलकर बनेगा, अर्थात् :—
 - (क) संकायाध्यक्ष — अध्यक्ष
 - (ख) संकाय में समाविष्ट विषयों के लिए सभी अध्ययन बोर्डों के अध्यक्ष
 - (ग) शासकीय महाविद्यालयों की ओर से संकाय को समनुदेशित प्रत्येक विभाग में से चक्रानुक्रम में, अधिमानतः वरिष्ठता के अनुसार महाविद्यालय का एक प्राध्यापक,
 - (घ) निजी महाविद्यालयों की ओर से संकाय को समनुदेशित प्रत्येक विभाग में से चक्रानुक्रम में, अधिमानतः वरिष्ठता के अनुसार महाविद्यालय का एक प्राध्यापक,
 - (ङ) संकाय में समाविष्ट किसी विषय का अध्यापन करने वाले संबद्ध महाविद्यालयों के महाविद्यालय प्राध्यापकों से भिन्न, चक्रानुक्रम में, अधिमानतः वरिष्ठता के अनुसार, महाविद्यालयों के तीन शैक्षणिक प्रमुख (संकायाध्यक्ष/प्राचार्य) (दो शासकीय एवं एक निजी महाविद्यालय से)
 - (च) संकाय में समाविष्ट किसी विषय का अध्यापन कराने वाले विश्वविद्यालय अध्यापन विभाग/प्राध्ययन केन्द्र, संघटक महाविद्यालय, संबद्ध महाविद्यालय के चक्रानुक्रम में, अधिमानतः वरिष्ठता के अनुसार, चार सह आचार्य एवं चार सहायक आचार्य;
 - (छ) विद्या परिषद् द्वारा अपने सदस्यों में से संकाय को समनुदेशित तीन व्यक्ति,
 - (ज) ऊपर खण्ड (क) तथा (छ) के अधीन सदस्य होने वाले व्यक्तियों द्वारा सहयोजित तीन से अनधिक ऐसे व्यक्ति जो विश्वविद्यालय या किसी महाविद्यालय से संबद्ध न हो और जिन्हें संकाय में समाविष्ट विषय या विषयों का विशेष ज्ञान हो:

- परन्तु संकाय के किसी एक विभाग का प्रतिनिधित्व करने वाला एक से अधिक व्यक्ति सहयोजित नहीं किया जाएगा।
4. संकायाध्यक्ष, कुलपति की अनुशंसा पर कुलाधिपति द्वारा दो वर्ष की समयावधि के लिए विश्वविद्यालय अध्यापन विभाग या प्राध्ययन केन्द्र प्राध्यापकों या महाविद्यालय के प्राध्यापकों में से, जो कि उक्त विषय में अध्यापक हैं, नियुक्त किया जाएगा :
- परन्तु यदि विश्वविद्यालय अध्यापन विभाग में उक्त विषय का कोई प्राध्यापक नहीं है तो संकायाध्यक्ष संबंध महाविद्यालयों के ऐसे प्राध्यापकों में से नियुक्त किया जाएगा जो उक्त विषय में अध्यापक हैं।
- परन्तु यह और कि यदि किसी संकाय में कोई प्राध्यापक नहीं हैं तो संकाय में स्नातकोत्तर अर्हता वाला वरिष्ठतम अध्यापक प्रभारी होगा।
5. प्रत्येक संकाय का संकायाध्यक्ष, उस संकाय का कार्यपालक अधिकारी होगा तथा संकाय के सम्मिलनों की अध्यक्षता करेगा तथा संकाय के सुचारु संचालन के लिए उत्तरदायी होगा। वह संकाय से संबंधित परिणियमों अध्यादेशों तथा विनियमों के सम्यक् पर्यवेक्षण तथा शिक्षण तथा शोध के संचालन तथा मानकों को बनाए रखने के लिए उत्तरदायी होगा।
6. संकायाध्यक्ष को संकाय के किसी भी अध्ययन बोर्ड के सम्मिलन में उपस्थित रहने तथा बोलने का अधिकार होगा परन्तु मतदान का अधिकार नहीं होगा।
7. संकायाध्यक्ष ऐसे अन्य कर्तव्यों का निर्वहन करेगा जैसे कि समय-समय पर कुलपति द्वारा निदेशित किए जाएं।
8. अधिनियम के उपबंधों के अधधीन रहते हुए प्रत्येक संकाय की निम्नलिखित शक्तियां होंगी, अर्थात् :-
- (क) विद्या परिषद् के नियंत्रणाधीन रहते हुए संकाय को समनुदेशित विभागों शिक्षण तथा शोध क्रियाकलापों को आयोजित, समन्वित तथा विनियमित करना;
- (ख) संकाय में विभिन्न परीक्षाओं के लिए अध्ययन बोर्ड द्वारा प्रस्तावित अध्ययन पाठ्यक्रम प्रस्तावित करना तथा मामले को अध्ययन बोर्ड को प्रेषित करना;
- (ग) विभिन्न उपाधियों के लिए परीक्षा योजना को सम्मिलित करते हुए उपाधियों, पत्रोपाधियों तथा अन्य विशिष्टताएं प्रदान करने के लिए विद्या परिषद् को शर्तें अनुशंसित करना;
- (घ) अपनी सीमा के भीतर के विषयों से संबंधित ऐसे अन्य मामलों को निपटाना जैसे कि विद्या परिषद् शैक्षणिक आयोजना तथा मूल्यांकन बोर्ड अथवा कुलपति द्वारा उसे निर्दिष्ट किए जाएं;
- (ङ) कुलपति के अनुमोदन से किसी अन्य संकाय अथवा संकायों के साथ संयुक्त रूप से सम्मिलन आयोजित करना, ऐसे संयुक्त सम्मिलन की अध्यक्षता कुलपति द्वारा नामनिर्देशित किसी संकायाध्यक्ष द्वारा की जाएगी;
- (च) ऐसी अन्य शक्तियां जैसी कि अध्यादेशों तथा विनियमों द्वारा उसे समय-समय पर सौंपी जाएं।
9. पदेन सदस्यों से भिन्न संकाय के सभी सदस्य तथा संकायाध्यक्ष तीन वर्ष की अवधि के लिए पद धारण करेंगे।
10. संकाय की कुल सदस्य संख्या की एक तिहाई से गणपूर्ति होगी।

परिनियम क्रमांक- बारह

अध्ययन बोर्ड

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (अध्ययन बोर्ड) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
- (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
- (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।

3. निम्नलिखित अध्ययन बोर्ड होंगे अर्थात् :-

(1) औषध संकाय

(क) स्नातक पूर्व विषय समूह हेतु -

स. क्र.	महाविद्यालय/मान्यताप्राप्त संस्था में विभाग	संबंधित अध्ययन बोर्ड
1.	(एक) ह्यूमन एनाटामी (दो) बायोफिजिक्स को सम्मिलित करते हुए ह्यूमन विषयों में अध्ययन बोर्ड फिजियोलॉजी (तीन) बायो-केमेस्ट्री	प्री-क्लीनिकल आयुर्विज्ञान
2.	(एक) पैथोलॉजी (ट्रान्सफ्यूजन मेडिसिन को सम्मिलित करते हुए) (दो) माइक्रोबायोलॉजी (तीन) फार्माकोलॉजी (चार) टॉक्सिकोलॉजी को सम्मिलित करते हुए फारेन्सिक मेडिसिन (पांच) /कम्युनिटी मेडिसिन/पी.एस.एम.	पैरा-क्लीनिकल आयुर्विज्ञान विषयों का अध्ययन बोर्ड
3.	(एक) मेडिसिन (दो) पीडियाट्रिक्स (तीन) साइकायट्री (चार) उर्मेटोलॉजी, वेनेरेओलॉजी तथा लेप्रसी (पांच) ट्यूबरकुलोसिस तथा रेस्पिरेटरी डिजीजेज़ (छः) रेडियोथेरेपी (सात) रेडियो डायग्नोसिस/रेडियोलॉजी	क्लीनिकल विषयों (औषध एवं सहबद्ध विषयों) का अध्ययन बोर्ड
4.	(एक) जनरल सर्जरी (दो) आर्थोपेडिक्स (तीन) ओटो-द्वाइनोलारेंगोलॉजी (चार) आर्थेलमोलॉजी (पांच) आब्स्टेट्रिक्स तथा गायनेकोलॉजी (छः) डेन्टिस्ट्री	क्लीनिकल विषयों (शल्यचिकित्सा तथा सहबद्ध विषयों) का अध्ययन बोर्ड
(ख) स्नातकोत्तर विषय समूह हेतु :		
1.	(एक) एनाटामी (दो) फिजियोलॉजी (तीन) बायो-केमेस्ट्री	प्री-क्लीनिकल आयुर्विज्ञान विषयों का अध्ययन बोर्ड
2.	(एक) ट्रान्सफ्यूजन मेडिसिन को सम्मिलित करते हुए पैथोलॉजी (दो) माइक्रोबायोलॉजी (तीन) फार्माकोलॉजी (चार) फारेन्सिक मेडिसिन (पांच) कम्युनिटी मेडिसिन/पी एस एम	पैरा-क्लीनिकल आयुर्विज्ञान विषयों का अध्ययन बोर्ड
3.	(एक) जनरल मेडिसिन (दो) पीडियाट्रिक्स (तीन) रेडियोथेरेपी (चार) रेडियो डायग्नोसिस/रेडियोलॉजी (पांच) साइकायट्री (छः) उर्मेटोलॉजी, वेनेरेओलॉजी तथा लेप्रसी (सात) ट्यूबरकुलोसिस तथा रेस्पिरेटरी डिजीजेज़	क्लीनिकल विषयों (औषध तथा सहबद्ध विषयों) का अध्ययन बोर्ड
4.	(एक) जनरल सर्जरी (दो) आर्थोपेडिक्स (तीन) ओटो-द्वाइनोलारेंगोलॉजी (चार) आर्थेलमोलॉजी (पांच) आब्स्टेट्रिक्स तथा गायनेकोलॉजी (छः) एनस्थेसियोलॉजी	क्लीनिकल विषयों (शल्य चिकित्सा तथा सहबद्ध विषयों) का अध्ययन बोर्ड

- 5 (एक) कार्डियोलाजी अतिविशिष्ट (औषध तथा सहबद्ध विषयों)
 (दो) क्लीनिकल हीनेटोलॉजी का अध्ययन बोर्ड
 (तीन) क्लीनिकल फार्माकोलाजी
 (चार) एन्डोक्राइनोलॉजी
 (पांच) ग्रेस्ट्रोएन्ट्रोलाजी
 (छह) मेडिकल ओन्कोलाजी
 (सात) नेफ्रोलाजी
 (आठ) न्यूरोलाजी
 (नौ) पलमोनरी मेडिसिन
 (दस) रूहमेटोलाजी
- 6 (एक) थोरासिस तथा कार्डियो वेस्कुलर सर्जरी अतिविशिष्ट (शल्यचिकित्सा तथा सहबद्ध
 (दो) न्यूरो सर्जरी विषयों) का अध्ययन बोर्ड
 (तीन) सर्जिकल ओन्कोलाजी
 (चार) पीडियाट्रिक सर्जरी
 (पांच) प्लास्टिक सर्जरी
 (छह) सर्जिकल ग्रेस्ट्रोएन्ट्रोलाजी
 (सात) यूरोलाजी

(2) दंत विज्ञान संकाय

(क) स्नातकपूर्व विषय समूह हेतु :

स. क्र.

महाविद्यालय/मान्यताप्राप्त संस्थान में विभाग

तत्स्थानी अध्ययन बोर्ड

1. (एक) जनरल ह्यूमन एनाटामी
 (दो) फिजियोलाजी तथा बायो-केमिस्ट्री
 (तीन) जनरल पैथोलाजी तथा माइक्रो बायलाजी
 (चार) जनरल फार्माकोलाजी
 (पांच) डेन्टल एनाटामी
 (छह) कम्युनिटी डेन्टिस्ट्री
 (सात) डेन्टल मटेरियल्स
 (आठ) ओरल पैथोलाजी तथा माइक्रोबायलाजी
 (एक) प्रोस्थोडोन्टिक्स
 (दो) आर्थोडोन्टिक्स
 (तीन) जनरल पैथोलाजी तथा माइक्रोबायलाजी
 (चार) पेरिओडोन्टिक्स
 (पांच) पेडोडोन्टिक्स
 (छह) ओरल डायग्नोसिस तथा रेडियोलाजी
 (सात) कन्जर्वेटिव डेन्टिस्ट्री
 (आठ) जनरल मेडिसिन
 (नौ) जनरल सर्जरी

प्री-क्लीनिकल (डेन्टल) विषयों का अध्ययन बोर्ड

क्लीनिकल (दंत) विषयों का अध्ययन बोर्ड

(ख) स्नातकोत्तर विषय समूह हेतु:

1. (एक) कम्युनिटी डेन्टिस्ट्री
 (दो) ओरल पैथोलाजी तथा माइक्रो बायलाजी
2. (एक) प्रोस्थोडोन्टिक्स
 (दो) आर्थोडोन्टिक्स
 (तीन) ओरल मेक्सिलो फेशियल सर्जरी
 (चार) पेरिओडोन्टिक्स
 (पांच) पेडोडोन्टिक्स
 (छह) ओरल डायग्नोसिस तथा रेडियोलाजी
 (सात) कन्जर्वेटिव डेन्टिस्ट्री

प्री-क्लीनिकल (दंत) विषयों का अध्ययन बोर्ड

क्लीनिकल (दंत) विषयों का अध्ययन बोर्ड

(3) भारतीय आयुर्विज्ञान पद्धति संकाय (आयुर्वेद, यूनानी, योगा, सिद्ध तथा प्राकृतिक चिकित्सा (नेचुरोपैथी))

स. क्र.	महाविद्यालय/मान्यताप्राप्त संस्थान में विभाग	तत्स्थानी अध्ययन बोर्ड
1.	(एक) सिद्धांत संहिता तथा संस्कृत (दो) रचना शरीर (तीन) क्रिया शरीर	प्री-क्लीनिकल आयुर्वेद विषयों का अध्ययन बोर्ड
2.	(एक) अगादतन्त्र तथा विधि आयुर्वेद (दो) द्रयागुण (तीन) रसशास्त्र तथा भेषज्य कल्पना (चार) रोगनिदान (पांच) स्वास्थ्य वृत्त	पैरा-क्लीनिकल आयुर्वेद विषयों का अध्ययन बोर्ड
3.	(एक) प्रसूतितन्त्र स्त्री रोग (दो) कौमार भृत्य (बालरोग) (तीन) कायाचिकित्सा (औषध) (चार) शल्य तंत्र (शल्य चिकित्सा) (पांच) शालक्य तंत्र (छह) पंचकर्म	क्लीनिकल आयुर्वेद विषयों का अध्ययन बोर्ड

(ख) आयुर्वेद में स्नातकोत्तर विषय समूह हेतु

स. क्र.	महाविद्यालय/मान्यताप्राप्त संस्थान में विभाग	तत्स्थानी अध्ययन बोर्ड
1.	(एक) सिद्धांत संहिता तथा संस्कृत (दो) रचना शरीर (तीन) क्रिया शरीर	प्री-क्लीनिकल आयुर्वेद विषयों का अध्ययन बोर्ड
2.	(एक) अगादतन्त्र तथा विधि आयुर्वेद (दो) द्रयागुण (तीन) रसशास्त्र तथा भेषज्य कल्पना (चार) रोगनिदान (पांच) स्वास्थ्य वृत्त (एक) प्रसूतितन्त्र स्त्री रोग (दो) कौमार भृत्य (बालरोग) (तीन) कायाचिकित्सा (औषध) (चार) शल्य तंत्र (शल्य चिकित्सा) (पांच) शालक्य तंत्र (छह) पंचकर्म	पैरा-क्लीनिकल आयुर्वेद विषयों का अध्ययन बोर्ड क्लीनिकल आयुर्वेद विषयों का अध्ययन बोर्ड

(ग) यूनानी में स्नातकपूर्व विषय समूह हेतु :-

(एक) कुल्लियात	यूनानी विषयों का अध्ययन बोर्ड
(दो) तशरीह	
(तीन) इलम-उल-अद्विया	
(चार) हिफज़ाने सेहत	
(पांच) निस्वान-ओ-अत्फाल	
(छह) मोआलिजात	
(सात) जराहियात	

(घ) यूनानी में स्नातकोत्तर विषय समूह हेतु :-

- (एक) कुल्लियात
- (दो) तशरीह
- (तीन) इलम-उल-अदिवया
- (चार) हिफजाने सेहत
- (पांच) निस्वान-औ-अत्फाल
- (छह) मोआलिजात
- (सात) जराहियात

यूनानी विषयों का अध्ययन बोर्ड

(ड.) प्राकृतिक चिकित्सा एवं योग विज्ञान में स्नातकपूर्व विषय समूह हेतु (बी.एन.वाय.एस.- प्राकृतिक चिकित्सा तथा योग विज्ञान स्नातक)

- (एक) स्नातकपूर्व विषय समूह हेतु:-
- (च) प्राकृतिक चिकित्सा तथा योग विज्ञान में स्नातकोत्तर विषय समूह हेतु
- (छ) सिद्ध में स्नातकपूर्व विषय समूह हेतु (बी.एस.एम.एस. - सिद्ध औषध तथा शल्यचिकित्सा स्नातक)
- (एक) स्नातकपूर्व विषय समूह हेतु
- (ज) सिद्ध में स्नातकोत्तर विषय समूह हेतु

(4) होम्योपैथी संकाय

(अ) होम्योपैथी में स्नातकपूर्व विषय समूह हेतु :-

अनु. क्रं

1.

महाविद्यालय/संस्थान में विभाग

- (एक) होम्योपैथी फार्मसी
- (दो) एनाटामी
- (तीन) बायोकेमिस्ट्री को सम्मिलित करते हुए फिजियोलॉजी
- (चार) होम्योपैथी मटेरिया मेडिका (बेसिक)
- (पांच) आर्गनन आफ मेडिसिन तथा होम्योपैथिक फिलासफी तथा सायकोलाजी के सिद्धांत (बेसिक)

2.

- (एक) पैथोलॉजी तथा माइक्रोबायोलॉजी
- (दो) फॉरेंसिक मेडिसिन तथा टॉक्सिकोलॉजी
- (तीन) होम्योपैथिक मटेरिया मेडिका (एप्लाइड)
- (चार) आर्गनन आफ मेडिसिन (एप्लाइड)

3.

- (एक) प्रेक्टिस ऑफ मेडिसिन तथा होम्योपैथिक थेराप्यूटिक्स
- (दो) होम्योपैथिक मटेरिया मेडिका (क्लीनिकल)
- (तीन) आर्गनन आफ मेडिसिन (क्लीनिकल)
- (चार) होम्योपैथिक रिपोर्टरी
- (क) कम्युनिटी मेडिसिन
- (ख) आब्स्टेट्रिक्स एन्ड गायनेकोलाजी विथ होम्योपैथिक थेराप्यूटिक्स
- (ग) सर्जरी विथ होम्योपैथिक थेराप्यूटिक्स

तत्स्थानी अध्ययन बोर्ड

प्री-क्लीनिकल होम्योपैथी विषयों का अध्ययन बोर्ड

पैरा- क्लीनिकल होम्योपैथी विषयों का अध्ययन बोर्ड

क्लीनिकल होम्योपैथी विषयों का अध्ययन बोर्ड

(ख) होम्योपैथी में स्नातकोत्तर विषय समूह हेतु

1.

- (एक) होम्योपैथिक मटेरिया मेडिका
- (दो) आर्गनन
- (तीन) रिपोर्टरी
- (चार) होम्योपैथिक फार्मसी

2.

- (एक) प्रेक्टिस ऑफ मेडिसिन एन्ड होम्योपैथिक थेराप्यूटिक्स
- (दो) पीडियाट्रिक्स एन्ड होम्योपैथिक थेराप्यूटिक्स
- (तीन) सायकायट्री एन्ड होम्योपैथिक थेराप्यूटिक्स

होम्योपैथिक विषयों का अध्ययन बोर्ड

होम्योपैथिक सहबद्ध विषयों का अध्ययन बोर्ड

- (5) परिचर्या विज्ञान संकाय
 (एक) स्नातकपूर्व विषय समूह हेतु :
 (दो) स्नातकोत्तर विषय समूह हेतु :
- (6) सहचिकित्सा तथा सहबद्ध विज्ञान संकाय
 (एक) स्नातकपूर्व विषय समूह हेतु :
 (दो) स्नातकोत्तर विषय समूह हेतु :

परिनियम क्रमांक— तेरह

अध्ययन बोर्ड का गठन, शक्ति तथा कृत्य

- संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (अध्ययन बोर्ड का गठन, शक्ति तथा कृत्य) परिनियम, 2013 है।
- परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
- कुलपति द्वारा अध्ययन बोर्ड का गठन निम्नलिखित से मिलकर किया जाएगा:—
 (1) (क) अध्ययन बोर्ड का अध्यक्ष : वरिष्ठता के अनुसार चक्रानुक्रम के प्राध्यापक और विभागाध्यक्ष;
 (ख) कुलपति द्वारा नामनिर्दिष्ट वरिष्ठता के आधार पर चक्रानुक्रम द्वारा आठ प्राध्यापक;
 (ग) अधिमानतः वरिष्ठता के आधार पर कुलपति द्वारा चक्रानुक्रम में नामनिर्दिष्ट दो सह-प्राध्यापक;
 (घ) अधिमानतः वरिष्ठता के आधार पर कुलपति द्वारा चक्रानुक्रम में नामनिर्दिष्ट दो सहायक प्राध्यापक ;
 (ङ) कुलपति द्वारा नामनिर्दिष्ट संबंधित विषय के दो बाह्य विशेषज्ञ सदस्य, बाह्य विशेषज्ञ सदस्य मध्यप्रदेश राज्य के बाहर से हो सकेंगे;
 (च) संबद्ध महाविद्यालयों/संस्थानों से संबंधित विषय के, कुलपति द्वारा नामनिर्दिष्ट दो आंतरिक विशेषज्ञ सदस्य।
 (2) अध्ययन बोर्ड के कुल सदस्यों के एक तिहाई से गणपूर्ति होगी।
- अध्ययन बोर्ड के अध्यक्ष तथा समस्त सदस्य तीन वर्ष की अवधि के लिए पद धारण करेंगे :
 परन्तु धारा 3 के खण्ड (ङ) के अधीन नामनिर्दिष्ट सदस्य केवल एक वर्ष की कालावधि के लिए पद धारण करेंगे।
- प्रत्येक बोर्ड की निम्नलिखित शक्तियां होगी अर्थात् :—
 (क) विश्वविद्यालय के समस्त पाठ्यक्रमों हेतु योजना/पाठ्यविवरण तैयार करना,
 (ख) पाठ्यविवरण तथा पाठ्यक्रम योजना के प्रतिवर्ष/पुनर्विलोकन के लिए विशेषज्ञ से नियमित रूप से परामर्श लेना तथा वर्तमान स्वास्थ्य विज्ञान परिदृश्य की आवश्यकता तथा ज्ञान के बदलते परिवेश में आवश्यक परिवर्तनों की अनुशंसा करना,
 (ग) शिक्षा की गुणवत्ता हेतु पाठ्यपुस्तकों की अनुशंसा करना,
 (घ) परीक्षाओं की योजना तैयार करना,
 (ङ) प्रश्न पत्र बनाने वाले/परीक्षक/मूल्यांकनकर्ताओं की नियुक्ति के लिए समुचित व्यक्तियों के नामों की सूची तैयार करना।
- कार्य परिषद् या विद्या परिषद् या संबंधित संकाय या कुलपति द्वारा अधिनियम, परिनियमों, अध्यादेशों या विनियमों के अनुसरण में कोई मामला निर्देशित होता है तो अध्ययन बोर्ड का कर्तव्य होगा कि उस पर विचार करे और उस पर प्रतिवेदन दे।
- कोई दो या अधिक बोर्ड, कार्य परिषद्, विद्या परिषद् या कुलपति के निवेदन पर, बैठक करेंगे और किसी भी ऐसे विषय पर जो दोनों की परिधि आता हो, संयुक्त प्रतिवेदन तैयार करेंगे। ऐसे मामलों में, संयुक्त बैठक की वरिष्ठ सदस्य अध्यक्षता करेगा। ऐसी संयुक्त बैठक की गणपूर्ति प्रत्येक बोर्ड के प्रतिनिधित्व के सम्मिलित होने पर पूर्ण होगी; गणपूर्ति के निर्धारण के प्रयोजन के लिए किसी भी सदस्य की गणना एक से अधिक बार नहीं होगी।

8. परिनियमों में किये गये उपबंधों के अनुसार अध्ययन बोर्ड में सम्मिलित सदस्यों से मिलकर परामर्श परिषद् गठित होगी जो क्षेत्रीय केन्द्र के सुचारु कार्यकरण में सहयोग तथा परामर्श देगी।
9. अध्ययन बोर्ड की एक कैलेण्डर वर्ष में कम से कम दो बैठक होगी, अध्ययन बोर्ड की बैठक कुलपति द्वारा जब कभी अपेक्षित हों, बुलाई जा सकेगी।
10. अत्यावश्यक मामलों में कुलपति, सदस्यों में अत्यावश्यक मामलों के किन्हीं प्रस्तावों के परिचालन द्वारा अध्ययन बोर्ड के मत प्राप्त कर सकेगा। ऐसे मत साथ ही उन पर की गई कार्रवाई समस्त सदस्यों को संसूचित की जाएगी।

परिनियम क्रमांक— चौदह

संबद्ध महाविद्यालयों तथा मान्यताप्राप्त संस्थाओं में प्राध्यापकों, सह प्राध्यापकों, सहायक प्राध्यापकों और अन्य शिक्षकों की अर्हताएं

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (संबद्ध महाविद्यालयों तथा मान्यताप्राप्त संस्थाओं में प्राध्यापकों, सह प्राध्यापकों, सहायक प्राध्यापकों और अन्य शिक्षकों की अर्हताएं) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
(क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
(ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. शिक्षकों की, जिसमें संबद्ध महाविद्यालयों के प्राचार्य/संकायाध्यक्ष सम्मिलित हैं, अर्हता ऐसी होगी जैसी कि संबंधित संकाय के अखिल भारतीय स्वास्थ्य विज्ञान शिक्षा परिषद् द्वारा विहित की जाएं।
यह उल्लेखनीय है कि विश्वविद्यालय समय-समय पर स्वास्थ्य विज्ञान शिक्षा के लिए संबंधित संकाय को अखिल भारतीय परिषद् द्वारा दिए गए न्यूनतम स्तरों के विरुद्ध स्वास्थ्य विज्ञान शिक्षा के लिए उच्चतर स्तरों को प्रस्तावित कर सकती है।
4. इस परिनियम में अन्तर्विष्ट किसी बात के होते हुए भी इस परिनियम के प्रवृत्त होने की तारीख के पूर्व किसी विश्वविद्यालय के परिनियम/अध्यादेश के उपबंधों के अनुसार किसी संकाय में नियुक्त किए गए प्राचार्य से भिन्न किसी अन्य प्रवर्ग का कोई अध्यापक, संबंधित प्रवर्ग एक अध्यापक के रूप में बने रहने का हकदार होगा।

परिनियम क्रमांक— पंद्रह

उपाधियां प्रदान करने हेतु दीक्षांत समारोह का आयोजित किया जाना

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (उपाधियां प्रदान करने हेतु दीक्षांत समारोह का आयोजित किया जाना) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
(क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
(ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. (1) स्नातक, स्नातकोत्तर, पी.एच.डी. सम्मानिक उपाधियां और अन्य उच्च उपाधियां प्रदान करने और प्रवीण छात्रों को पुरस्कार वितरण हेतु सामान्यतया, प्रतिवर्ष, माह दिसम्बर में, विश्वविद्यालय के मुख्यालय में दीक्षांत समारोह आयोजित किया जावेगा और जिसे वार्षिक दीक्षांत समारोह कहा जाएगा।
(2) आवश्यक और सुविधाजनक होने पर किसी भी समय एक विशेष दीक्षांत समारोह भी आयोजित किया जायेगा, दीक्षांत समारोह की वास्तविक तिथि कुलाधिपति के अनुमोदन से कुलपति द्वारा निर्धारित की जावेगी।
(3) साधारणतः दीक्षांत समारोह आयोजित करने हेतु कुलसचिव द्वारा, सूचना जारी की जाएगी जो चार सप्ताह से कम की अवधि की नहीं होगी, विश्वविद्यालय से संबद्ध संस्थाओं को प्रचार-प्रसार हेतु सूचना दी जावेगी ताकि वे संबंधित छात्रों को सूचित कर सकें। तथापि, विशेष दीक्षांत समारोह की स्थिति में या किसी अन्य मामले में जहां कोई विषय कुलपति, त्वरित विचार योग्य समझें, यह अवधि दस दिन तक घटाई जा सकेगी।
(4) जो अभ्यर्थी व्यक्तिगत रूप से उपाधि ग्रहण करना चाहता है, उसे दीक्षांत समारोह हेतु निश्चित तिथि के पूर्व कुलसचिव को आवेदन करना होगा।
(5) प्रत्येक उपाधि में कुलपति के सम्यक रूप से हस्ताक्षर होंगे। उपाधियों पर वही तिथि होगी, जो तिथि दीक्षांत समारोह की हो या विद्या परिषद् द्वारा निर्धारित अन्य तिथि चाहे उसका वितरण दीक्षांत समारोह में हो या अन्यथा।

4. कुलाधिपति, कुलपति, संकायाध्यक्षों, सभा के सदस्यों, कार्य परिषद्, विद्या परिषद् एवं कुलसचिव, विश्वविद्यालय का शैक्षणिक परिधान अन्य कोई परिधान या विद्या परिषद् द्वारा निर्धारित कोई अन्य परिधान पहनेंगे।
 - (1) दीक्षांत समारोह, में अभ्यर्थी कार्य परिषद् द्वारा विहित शैक्षणिक परिधान पहनेंगे, और किसी भी अभ्यर्थी को विश्वविद्यालय द्वारा विहित किये गये शैक्षणिक परिधान के बगैर दीक्षांत समारोह में प्रवेश नहीं दिया जावेगा।
 - (2) दीक्षांत समारोह में उपस्थित अभ्यर्थियों को उपाधियां वितरित की जाएंगी।
 - (3) जो अभ्यर्थी दीक्षांत समारोह में स्वयं उपस्थित होने में असमर्थ है, उन्हें उनकी अनुपस्थिति में विश्वविद्यालय में उपलब्ध उनके पते पर उपाधियां भेज दी जाएंगी।
5. कुलाधिपति, कुलपति, संकायों के संकायाध्यक्ष सभा के सदस्य, कार्य परिषद् एवं विद्या परिषद् एवं कुलसचिव, सूचित स्थान एवं नियत समय पर एकत्रित होंगे और दीक्षांत समारोह स्थल के लिये निम्नलिखित क्रम में जुलूस में चलेंगे :-
 - (1) कुलसचिव
 - (2) विद्या परिषद् के सदस्य
 - (3) कार्य परिषद् के सदस्य,
 - (4) सभा के सदस्य,
 - (5) संकायों के संकायाध्यक्ष
 - (6) कुलपति,
 - (7) मुख्य अतिथि, यदि कोई है,
 - (8) कुलाधिपति।
6. (1) कुलाधिपति, मुख्य अतिथि, कुलपति, मुख्यमंत्री, स्वास्थ्य शिक्षामंत्री एवं अन्य मंत्री, यदि उपस्थित हों, संकायों के संकायाध्यक्ष, कार्य परिषद् के सदस्य, कुलसचिव एवं कार्य परिषद् द्वारा दिये गए नाम के ऐसे अन्य व्यक्ति मंच पर आसीन होंगे और मंच के दोनों तरफ सभा और विद्या परिषद् के सदस्यों हेतु स्थान सुरक्षित रहेंगे।
 - (2) उपस्थित अभ्यर्थी समारोह में उनके लिये सुरक्षित संस्थानों में दीक्षांत हाल/पंडाल में जुलूस प्रवेश करने के पूर्व बैठेंगे। जैसे ही जुलूस दीक्षांत हाल/पंडाल में प्रवेश करता है, वहां उपस्थित सभी अपने स्थान पर खड़े होंगे और जब तक जुलूस के समस्त सदस्य अपना स्थान ग्रहण नहीं कर लेते, खड़े रहेंगे।
7. कुलसचिव, दीक्षांत समारोह आरंभ होने की घोषणा कुलाधिपति की अनुमति से करेगा और उनकी अनुपस्थिति में कुलपति की अनुमति से करेगा। कुलपति के निवेदन से कुलाधिपति और कुलाधिपति की अनुपस्थिति में कुलपति, अभ्यर्थियों को आने की अनुमति देंगे। प्रस्तुतीकरण का क्रम निम्नानुसार होगा :-
 1. सम्मानिक उपाधियां, यदि कोई हों,
 2. पीएच.डी.,
 3. अतिविशिष्ट
 - (क) वर्णक्रमानुसार आयुर्विज्ञान समूह,
 - (ख) वर्णक्रमानुसार शल्य चिकित्सा समूह,
 4. स्नातकोत्तर एवं स्नातक पूर्व उपाधिधारी समस्त स्वर्ण पदक धारक निम्नलिखित क्रम से आवेंगे :-
 - (क) औषध,
 - (ख) दंत चिकित्सा,
 - (ग) आयुर्वेद,
 - (घ) होम्योपैथी,
 - (ङ) नर्सिंग,
 - (च) सिद्धा,
 - (छ) यूनानी,
 - (ज) योगा,
 - (झ) सहबद्ध विज्ञान,

8. संबंधित संकायों के संकायाध्यक्ष और कुलपति भी संकाय की विभिन्न उपाधियां प्रदान करने के लिए समस्त अभ्यर्थियों को उपस्थित करायेंगे एवं संबंधित अनुपस्थित उपाधिधारी के लिये उपस्थित अभ्यर्थी को, प्रवेश देंगे। संकाय के संकायाध्यक्षों एवं कुलपति के प्रोद्घरण कार्य परिषद् द्वारा विहित किए गए अनुसार होंगे जब तक संकायाध्यक्ष और कुलपति अभ्यर्थियों को उपाधियां देंगे तब तक उपाधि प्राप्तकर्ता खड़े रहेंगे।
9. सम्मानिक उपाधि प्रदान करने के प्रकरण में, उपाधि प्राप्तकर्ता के प्रोद्घरण में कुलाधिपति द्वारा समुचित रीति में परिवर्तन किया जा सकेगा। उपाधियां प्रदान करने के बाद, कुलसचिव, उन नियमित एवं प्रायव्हेट अभ्यर्थियों की जिन्हें दीक्षांत समारोह में उपस्थिति या अनुपस्थिति में उपाधियां प्रदान की गई हैं, संख्या की भी घोषणा करेंगे।
10. कुलाधिपति या उनकी अनुपस्थिति में कुलपति, पदकों, पुरस्कारों को उनके प्राप्तकर्ताओं को जिनको कुलसचिव द्वारा व्यक्तिगत रूप से बुलाया जाएगा, कुलाधिपति या कुलपति, जैसी भी स्थिति हो, के सामने खड़े होकर, उनसे पदकों, पुरस्कारों को प्राप्त करेंगे। कुलसचिव प्राप्तकर्ताओं के नाम पढ़ेंगे।
11. कुलाधिपति या उनकी अनुपस्थिति में कुलपति, मुख्य अतिथि से, दीक्षांत भाषण देने हेतु निवेदन करेंगे।
12. इसके बाद दीक्षांत भाषण होगा। कुलाधिपति और उनकी अनुपस्थिति में कुलपति की अनुमति से, कुलसचिव द्वारा दीक्षांत भाषण समाप्ति की घोषणा की जावेगी और जुलूस दीक्षांत हाल को खाली कर देगा।
13. परिनियम में अंतर्विष्ट किसी बात के होत हुए भी कुलाधिपति वार्षिक दीक्षांत समारोह या दीक्षांत समारोह के आयोजन को स्थगित कर सकते हैं। ऐसे मामले में अभ्यर्थियों को कुलपति द्वारा सम्यक् रूप से हस्ताक्षरित उपाधि उनके पते पर भेज दी जावेगी।
14. विश्वविद्यालय द्वारा समय-समय पर निर्धारित शुल्कों के भुगतान हेतु प्रत्येक स्नातक बाध्य है :-
 1. परिधान/बैज शुल्क,
 2. दीक्षांत समारोह शुल्क,
 3. व्यक्तिगत रूप से उपाधि प्राप्त करने हेतु शुल्क
15. यदि कोई प्रबंध इस परिनियम में विहित न हो या किसी प्रकार की विवाद की स्थिति आती है तो कुलाधिपति का निर्णय या उनकी अनुपस्थिति में कुलपति का निर्णय, अंतिम होगा।

परिनियम क्रमांक— सोलह

सम्मानिक उपाधियां प्रदान किया जाना

1. **संक्षिप्त नाम** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (सम्मानिक उपाधियां प्रदान किया जाना) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. सम्मानिक उपाधियों को प्रदान किए जाने का प्रस्ताव विद्या परिषद् की स्थायी समिति द्वारा सर्वसम्मति से किया जाएगा। यह कुलपति, कुलाधिपति के एक नामनिर्देशिती तथा संबंधित संकाय के संकायाध्यक्ष से गठित समिति के समक्ष रखा जाएगा। यदि समिति सर्वसम्मति से यह अनुशंसा करती है कि किसी ऐसे व्यक्ति को सम्मानिक उपाधि इस आधार पर प्रदान की जाए कि उसकी राय में वह ऐसी उपाधि प्राप्त करने के लिए उपयुक्त और समुचित है तो उसकी अनुशंसा को विद्या परिषद् के समक्ष रखा जाएगा। विद्या परिषद् द्वारा अनुमोदित करने पर इसे कार्य परिषद् के समक्ष भेजा जाएगा।
4. यदि कार्य परिषद् के कम से कम दो तिहाई सदस्यों द्वारा अनुशंसा की गई हो और उनकी अनुशंसा सभा के सम्मिलन में उपस्थित तथा मतदान करने वाले सदस्यों के कम से कम दो तिहाई बहुमत द्वारा समर्थित हो तथा ऐसा बहुमत सभा की तत्समय कुल सदस्य संख्या के कम से कम आधे से हो तो सभा, यदि ऐसी अनुशंसा की पुष्टि कुलाधिपति द्वारा की गई हो तो इस प्रकार अनुशंसा की गई सम्मानिक उपाधि ऐसे व्यक्ति को प्रदान कर सकेगी :
परंतु यह कि अत्यावश्यक मामलों में यदि उक्त समिति की अनुशंसा कार्य परिषद् द्वारा अनुमोदित कर दी गई है तो कुलाधिपति द्वारा ऐसे प्रस्ताव की पुष्टि की जा सकेगी।

परिनियम क्रमांक— सत्रह**अध्येतावृत्तियों, छात्रवृत्तियों, छात्र सहायता वृत्तियों, वजीफों, पदकों, पारितोषिकों और अन्य पुरस्कारों का स्थापन तथा विन्यासों का प्रशासन**

1. **संक्षिप्त नाम** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (अध्येतावृत्तियों, छात्रवृत्तियों, छात्र सहायता वृत्तियों, वजीफों, पदकों, पारितोषिकों और अन्य पुरस्कारों का स्थापन तथा विन्यासों का प्रशासन) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. कार्य परिषद्, सभी विन्यासों का प्रशासन करेगी।
 - (1) कार्य परिषद् आवर्ती स्वरूप की अध्येतावृत्तियों वजीफों, पदकों और अन्य पारितोषिकों हेतु विन्यास स्थापित करने हेतु, दान स्वीकार कर सकेगी।
 - (2) वसीयतों, दानों, विन्यासों और पारितोषिकों के समस्त प्रस्ताव, कार्य परिषद् द्वारा समय-समय पर इस प्रयोजन हेतु तैयार किए गए नियमों के अनुसार स्वीकृत किए जाएंगे।
 - (3) पुरस्कार संस्थित करने हेतु, आवश्यक विन्यास का मूल्य कार्य परिषद् द्वारा विहित किया जाएगा, किन्तु दान की राशि 50,000 रुपये से कम नहीं होगी।
 - (4) कार्य परिषद् द्वारा स्वीकृत प्रत्येक विन्यास की दशा में, कार्य परिषद् दानदाता का नाम, प्रारंभिक राशि तथा विन्यास के प्रयोजन देते हुए परिनियम तैयार करेगी।
 - (5) विद्या परिषद् दानदाता से परामर्श करने के पश्चात् पारितोषिक की शर्तें विहित करेगी और यथासंभव उसकी इच्छा पर ध्यान दिया जाएगा।
4. समस्त स्वीकृत दान/विन्यास भारतीय न्यास अधिनियम, 1882 (1882 का 1) में वर्णित प्रतिभूति में या भारत में स्थावर संपत्ति में निवेश द्वारा प्रतिभूत किया जाएगा। कार्य परिषद् के स्वविवेक पर नगद में प्राप्त राशि ऊपर संदर्भित किसी भी प्रतिभूति में या भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) में यथा परिभाषित अधिसूचित बैंक में सावधि जमा में निवेश की जाएगी, ताकि अधिकतम ब्याज प्राप्त किया जा सके।
5. विन्यास से प्राप्त वार्षिक आय में से पुरस्कार प्रदान किया जाएगा। कोई अव्ययीत शेष या अतिशेष जो किसी वर्ष पुरस्कार में प्रदान नहीं किया जाने के कारण किसी अन्य कारण से एकत्रित अव्ययीत शेष रहता है तो विन्यास में जोड़ दिया जाएगा।
6. जहां संभव हो उचित नगद पारितोषिक के साथ, विश्वविद्यालय के चिन्ह सहित स्वर्ण पदक प्रदान किए जाएंगे।
7. विश्वविद्यालय ऐसे विन्यासों को जो उस विन्यास के लाभों को किसी विशेष जाति अपवाद स्वरूप सामान्य वर्ग या समुदाय के लिए निर्बंधित करते हैं स्वीकार नहीं करेगा कमजोर वर्गों जैसे महिला और अन्य पिछड़ा वर्ग के लिए विन्यास स्वीकार किया जाएगा।
8. विन्यास या दान से वार्षिक वसूली प्रशासनिक प्रभार 10 प्रतिशत घटाने के अध्वधीन होगी।
9. कोई अभ्यर्थी, अध्ययनवृत्ति, पारितोषिक मेडल या अन्य पुरस्कार के लिए पात्र नहीं होगा जो स्वयं को उस परीक्षा जिससे पुरस्कार सम्मिलित है, में उस परीक्षा को शासित करने वाले परिनियम द्वारा विहित न्यूनतम कालावधि के अवसान के दो वर्षों से अधिक के पश्चात्, प्रस्तुत करता है। इस परिनियम के प्रयोजन के लिए कालावधि की गणना उस निचली परीक्षा उत्तीर्ण होने के दिनांक से जो अभ्यर्थी को उच्च परीक्षा के पाठ्यक्रम में प्रवेश लेने हेतु अर्ह बनाती है, की जाएगी।
10. उस अभ्यर्थी के जिसको पारितोषिक प्रदान किया जा रहा है नाम की घोषणा की जाएगी और दानदाता को सूचित किया जाएगा।
11. यदि किसी विशिष्ट शैक्षणिक कार्यक्रम के लिए पारितोषिक/पदक स्थापित करने के लिए विन्यास स्वीकृत किया जाता है, और यदि विश्वविद्यालय उस कार्यक्रम को उपांतरित, परिवर्तित या विलोपित करने का निर्णय लेता है तो विश्वविद्यालय उस विन्यास का उपयोग दानदाता की अनुमति से किसी अन्य कार्यक्रम के लिए, पारितोषिक स्थापित करने में करेगा।

12. प्रत्येक चार वर्ष के पश्चात् विश्वविद्यालय समस्त विन्यासों का पुनर्विलोकन करेगा और उन विन्यासों की बढ़ी संचित निधि और अन्य सम्बद्ध तथ्यों से पारितोषिक की राशि में परिवर्तन कर सकेगी। इस प्रयोजन के लिए निम्नलिखित को सम्मिलित करते हुए समिति गठित की जा सकेगी. —
- (क) कुलपति अध्यक्ष
(ख) अधिष्ठाता विद्यार्थी कल्याण
(ग) कुलसचिव
(घ) वित्त एवं लेखाधिकारी
(ङ.) परीक्षा नियंत्रक
13. व्यक्ति या संस्था या न्यास जो दान और विन्यास देते हैं, वे भारत सरकार के नियमों के अनुसार कर में छूट के हकदार होंगे।

परिनियम क्रमांक—अठारह

विश्वविद्यालय से सम्बद्ध महाविद्यालयों/संस्थानों के अध्यापकों की वरिष्ठता निर्धारण की रीति

1. **संक्षिप्त नाम** :- इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विश्वविद्यालय से सम्बद्ध महाविद्यालयों/संस्थानों के अध्यापकों की वरिष्ठता निर्धारण की रीति) परिनियम, 2013 है।
2. **परिभाषा** :- इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. अधिनियम, परिनियम और अध्यादेश के प्रयोजन के लिए निम्नलिखित से सम्बन्धित अध्यापकों की वरिष्ठता. —
 - (क) अध्यापन विभागों/अध्ययन केन्द्रों एवं विश्वविद्यालय द्वारा संधारित महाविद्यालय,
 - (ख) विश्वविद्यालय से सम्बद्ध महाविद्यालयों की क्रमशः समूह क तथा ख के क्रमानुसार होगी:

समूह क

 - (1) आचार्य
 - (2) उपाचार्य
 - (3) व्याख्याता

समूह ख

 - (1) महाविद्यालय का आचार्य,
 - (2) महाविद्यालय के आचार्य से भिन्न पूर्णकालिक और वैतनिक प्राचार्य,
 - (3) उपाचार्य,
 - (4) सहायक आचार्य,
 - (5) प्राध्यापक।
4. “सेवा” से अभिप्रेत है अध्यापन विभाग/अध्ययन केन्द्रों या विश्वविद्यालय द्वारा प्रेषित या सम्बद्ध घटक महाविद्यालय /महाविद्यालयों और/या अध्ययन केन्द्रों या अध्यापन विभाग में किसी केन्द्र या राज्य अधिनियम के अधीन स्थापित किसी अन्य विश्वविद्यालय से सम्बद्ध या पोषित महाविद्यालय या घटक महाविद्यालय में सेवा।
5. अध्यापक जो विश्वविद्यालय या महाविद्यालय में स्थायी पद धारण करता है यदि अवकाश या प्रतिनियुक्ति पर है, तो वह किसी आधार पर चाहे जो हो, छह मास से अनधिक ऐसे अवकाश की कालावधि के दौरान निरंतर सेवा में समझा जाएगा।
6. (क) महाविद्यालय के आचार्यों से भिन्न पूर्णकालिक वैतनिक प्राचार्यों की परस्पर वरिष्ठता प्राचार्यों की वरिष्ठता से सम्बन्धित परिनियमों के प्रावधानों के अनुसार निर्धारित होगी।
(ख) आचार्य, महाविद्यालय के आचार्य, उपाचार्य, महाविद्यालय के उपाचार्य, सहायक आचार्य या प्राध्यापक की वरिष्ठता, ऐसे व्यक्ति की संवर्ग में निरंतर सेवा की कालावधि के साथ किसी अन्य समतुल्य या संबंधित संवर्ग से उच्च सेवा की निरंतर सेवा अवधि साथ लेकर निर्धारित की जाएगी :
परन्तु जहां अधिनियम के उपबंधों के अनुसार प्राचार्य/अधिष्ठाता महाविद्यालय आचार्य के संवर्ग में सम्मिलित किए जाते हैं, वहां महाविद्यालय के आचार्य के रूप में उसकी वरिष्ठता निम्नानुसार अवधारित की जाएगी:

- (एक) ऐसे आचार्य/अधिष्ठाता के रूप में निरंतर सेवाकाल यदि वह ऐसे प्राचार्य के रूप में उसकी नियुक्ति के पूर्व महाविद्यालय आचार्य नहीं था।
- (दो) महाविद्यालय के आचार्य के रूप में और उसके पश्चात् ऐसे प्राचार्य/अधिष्ठाता के रूप में कुल सेवाकाल यदि प्राचार्य/अधिष्ठाता ऐसे प्राचार्य/अधिष्ठाता के रूप में उसकी नियुक्ति के पूर्व महाविद्यालय का आचार्य था।
7. ऊपर पैरा (3) के अनुसार गणना में यदि किसी संवर्ग में दो या अधिक अध्यापकों के सेवाकाल समान हैं तो उनकी परस्पर वरिष्ठता, ठीक नीचे के संवर्ग में यदि कोई हो, में निरंतर सेवाकाल के अनुसार अवधारित की जाएगी।
8. ऊपर पैरा (4) के अनुसार गणना के पश्चात् यदि दो या अधिक अध्यापकों की परस्पर वरिष्ठता समान है तो उनकी परस्पर वरिष्ठता ऊपर पैरा (4) के अधीन ठीक नीचे के संवर्ग में विचार किए गए, यदि कोई हो निरंतर सेवाकाल के अनुसार संवर्ग में अवधारित की जाएगी।
9. संभावित सीमा तक विस्तार पूर्वगामी उपबंधों के अनुसार गणना के पश्चात् दो या अधिक अध्यापकों की किसी भी संवर्ग में परस्पर वरिष्ठता समान है तो उनकी परस्पर वरिष्ठता किसी संवर्ग में अध्यापक के रूप में निरंतर सेवा की कुल कालावधि द्वारा अवधारित की जाएगी।
10. यदि संभावित विस्तार तक पूर्वगामी उपबंधों को लागू करने के पश्चात् दो या अधिक अध्यापकों की वरिष्ठता समान है तो उनकी परस्पर वरिष्ठता आयु में वरिष्ठता के अनुसार निर्धारित की जाएगी।

परिनियम क्रमांक—उन्नीस

विश्वविद्यालय से संबद्ध महाविद्यालयों/संस्थानों के प्राचार्यों/अधिष्ठाताओं की वरिष्ठता

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विश्वविद्यालय से संबद्ध महाविद्यालयों/संस्थानों के प्राचार्यों/अधिष्ठाताओं की वरिष्ठता) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;

(क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्र. 19 सन् 2011) की धारा 36 तथा 37 के उपबंधों के अधीन बनाए गए परिनियम ;

(ख) उन शब्दों तथा अभिव्यक्तियों के जो इन परिनियमों में प्रयुक्त किए गए हैं किन्तु परिभाषित नहीं किए गए हैं किन्तु परिभाषित नहीं किए गए हैं वही अर्थ होंगे जो अधिनियम में उन्हे दिए गए हैं।
3. अधिनियम और परिनियमों के प्रयोजन के लिए प्राचार्य/अधिष्ठाताओं की वरिष्ठता केन्द्रीय अथवा राज्य अधिनियम के अधीन स्थापित विश्वविद्यालय या किसी अन्य विश्वविद्यालय से संबद्ध महाविद्यालय/महाविद्यालयों के प्राचार्य/अधिष्ठाता के रूप में निरंतर सेवाकाल के अनुसार अवधारित की जाएगी।
4. यदि ऊपर पैरा 1 के अनुसार संगणित किया गया दो या अधिक प्राचार्यों का सेवाकाल बराबर है तो उनकी परस्पर वरिष्ठता किसी केन्द्रीय अथवा राज्य अधिनियम के अधीन स्थापित विश्वविद्यालय किसी अन्य विश्वविद्यालय से संबद्ध महाविद्यालय/महाविद्यालयों में महाविद्यालय के आचार्य के रूप में निरंतर सेवाकाल के अनुसार अवधारित की जाएगी।
5. ऊपर पैरा 2 के अनुसार गणना के पश्चात् यदि दो या अधिक प्राचार्यों की परस्पर वरिष्ठता समान है तो उनकी परस्पर वरिष्ठता किसी केन्द्रीय अथवा राज्य अधिनियम के अधीन स्थापित विश्वविद्यालय में और/या किसी अन्य विश्वविद्यालय में अध्यापक के रूप में निरंतर सेवा की कुल कालावधि के अनुसार अवधारित की जाएगी।
6. यदि पूर्वगामी उपबंधों को लागू करने के पश्चात् दो या अधिक प्राचार्यों की वरिष्ठता समान है तो उनकी परस्पर वरिष्ठता, उनकी आयु में वरिष्ठता के अनुसार अवधारित की जाएगी।
7. केवल वे प्राचार्य, जो या तो सरकार द्वारा लोक सेवा आयोग के माध्यम से या कुलपति या उसके नामनिर्देशिनी की अध्यक्षता में सम्यक रूप से गठित चयन समिति के माध्यम से नियुक्त किए गए हों, प्राचार्यों की सूची में सम्मिलित किए जाएंगे।
8. यदि ऐसा प्राचार्य, जो किसी महाविद्यालय में प्राचार्य के रूप में स्थायी पद धारण करता हो, अवकाश पर या प्रतिनियुक्ति पर हो, तो वह अपने पद पर जो भी कोई आधार हो ऐसे अवकाश की कालावधि के दौरान जो छह मास से अधिक न हो तथा ऐसे अवकाश या प्रतिनियुक्ति की कालावधि के दौरान, जो कि शैक्षणिक प्रयोजनों के लिए तीन वर्षों से अधिक नहीं हो, अपने पद पर निरंतर सेवा में माना जाएगा।

परिनियम क्रमांक-बीस**विश्वविद्यालय से संबद्ध महाविद्यालयों विभागाध्यक्षों की वरिष्ठता**

1. **संक्षिप्त नाम :-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विश्वविद्यालय से संबद्ध महाविद्यालयों विभागाध्यक्षों की वरिष्ठता) परिनियम, 2013 है।
2. **परिभाषा :-** इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. संबद्ध महाविद्यालयों में विभागाध्यक्षों की परस्पर वरिष्ठता नीचे दिए गए संवर्गों के क्रम में होगी :
 - (एक) महाविद्यालय आचार्य
 - (दो) महाविद्यालय आचार्यों से भिन्न पूर्णकालिक तथा वैतनिक प्राचार्य
 - (तीन) उपाचार्य
 - (चार) सहायक आचार्य
 - (पांच) व्याख्याता
4.
 - (1) ऊपर विनिर्दिष्ट प्रवर्गों में से प्रत्येक के अधीन विभागाध्यक्षों की वरिष्ठता, महाविद्यालय में महाविद्यालय आचार्य, प्राचार्य, उपाचार्य, सहायक आचार्य या व्याख्याता के रूप में, जैसी भी स्थिति हो, उनकी वरिष्ठता द्वारा अवधारित की जाएगी।
 - (2) यदि महाविद्यालय में विभागाध्यक्ष अपने कार्यालय में छह मास से अधिक की कालावधि के लिए अवकाश पर जाता है तो उसका पद रिक्त समझा जाएगा और महाविद्यालय का प्राचार्य बिना देरी के विभागाध्यक्ष उत्तराधिकारी का नाम कुलसचिव को संसूचित करेगा।

परिनियम क्रमांक-इक्कीस**वरिष्ठता सूचियों का तैयार किया जाना एवं अनुरक्षण**

1. **संक्षिप्त नाम :-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (वरिष्ठता सूचियों का तैयार किया जाना एवं अनुरक्षण) परिनियम, 2013 है।
2. **परिभाषा :-** इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. कुलसचिव का यह कर्तव्य होगा कि इसके पश्चात् वर्षित खण्डों में अधिकथित प्रक्रिया के अनुसार प्राचार्यों, आचार्यों, महाविद्यालय आचार्यों, महाविद्यालय में उपाचार्यों, सहायक आचार्यों तथा व्याख्याताओं के संबंध में अद्यतन वरिष्ठता सूचियां तैयार करे तथा उनका अनुरक्षण करें।
4. **समस्त प्राचार्य/आचार्य/उपाचार्य सहायक महाविद्यालय आचार्य/महाविद्यालय में व्याख्याता विश्वविद्यालय अध्यापक शिक्षण विभाग संबंधित संवर्ग में उनके नाम सम्मिलित किए जाने के लिए इस परिनियम परिशिष्ट में दिए गए विहित प्ररूप में महाविद्यालय के प्राचार्यों/अध्यापन विभागाध्यक्ष के माध्यम से प्रत्येक वर्ष कम से कम 15 अक्टूबर तक आवेदन करेंगे।** ऐसे व्यक्ति को जिनके प्रत्येक प्रकार से पूर्ण तथा आवश्यक साक्ष्य से समर्थित आवेदन विहित तारीख के भीतर प्राप्त नहीं होते हैं, सूची में सम्मिलित करने के लिए विचार नहीं किया जाएगा :

परन्तु ऐसे अध्यापकों को जो एक बार आवेदन कर चुके हैं जब तक कि उनके अपने अपने संवर्ग से अंतरण या पदोन्नति द्वारा परिवर्तित बदले नहीं जाते पुनः आवेदन करने की आवश्यकता नहीं है। प्राचार्य/अध्यापन विभागाध्यक्ष उन अध्यापकों के नाम कुलसचिव को संसूचित करेगा जो संस्था छोड़ जाते हैं। कुलसचिव क्रमशः प्राचार्यों, आचार्य, महाविद्यालय आचार्यों, उपाचार्यों, महाविद्यालय में उपाचार्यों, सहायक आचार्यों तथा व्याख्याताओं की परस्पर वरिष्ठता दर्शाते हुए सूची तैयार करेगा और आपत्ति आमंत्रित करते हुए उक्त सूचियों को प्रकाशित करेगा।
5. आपत्तियों के लिए सूचियों का प्रकाशन 15 नवम्बर को या उससे पूर्व किया जाएगा और प्रत्येक महाविद्यालय/अध्यापन विभाग को एक प्रति महाविद्यालय/अध्यापन विभाग के कार्यालय सूचना पटल पर प्रदर्शित करने के लिए और अन्य संबंधित अध्यापन स्टाफ के सदस्यों को संदर्भ हेतु उपलब्ध कराने के लिए सूचियों की दो प्रतियां अग्रेषित की जाएंगी।

6. (क) कोई भी प्राचार्य/आचार्य/महाविद्यालय आचार्य/विश्वविद्यालय उपाचार्य/ महाविद्यालय में उपाचार्य महाविद्यालय/विश्वविद्यालय में प्राध्यापक जो उक्त सूची में की गई किसी प्रविष्टि या लोप के कारण व्यथित अनुभव करता है, तो महाविद्यालय/अध्यापन विभाग के स्टाफ सूचना फलक पर सूची के प्रकाशन की तारीख से बीस दिन के भीतर अपने-अपने कारणों का कथन करते हुए और उसके प्रति अपने-अपने विरोध के समर्थन में साक्ष्य के साथ कुलसचिव को संबोधित करते हुए आपत्ति फाईल कर सकेगा। यदि आपत्तिकर्ता व्यक्तिगत रूप से सुनवाई चाहता है तो वह उसका विशिष्ट रूप से कथन करेगा।
- (ख) कुलपति उन आपत्तियों पर, जो वरिष्ठता सूची के संबंध में फाइल की गई है, विचार करने से जिसमें कार्य परिषद् का एक सदस्य तथा उन व्यक्तियों से जो कार्य परिषद् के सदस्य हैं, से भिन्न दो प्राचार्य/आचार्य को सम्मिलित करते हुए 30 नवम्बर से पूर्व एक समिति नियुक्त करेगा। कुलपति उनमें से एक को समिति का संयोजक नामनिर्दिष्ट करेगा।
- (ग) कुलपति द्वारा नियुक्त समिति ऐसे समय और ऐसी तारीखों को बैठक करेगी, जैसा कि समिति का संयोजक नियत करे।
- (घ) समिति जहां आवश्यक होगा, संबंधित पक्षों को बुला सकेगी या विश्वविद्यालय से संबद्ध या उसके द्वारा अनुरक्षित किसी महाविद्यालय या विश्वविद्यालय के कब्जे (स्वामित्व) के किसी भी दस्तावेज, नस्ती, पंजी या अभिलेख का निरीक्षण कर सकेगी।
- (ङ) यदि आपत्तिकर्ता व्यक्तिगत रूप से सुनवाई चाहता है तो समिति आपत्तिकर्ता को सुनवाई का युक्तियुक्त अवसर देगी।
- (च) समिति अपने विनिश्चय और उसके कारणों की भी रिपोर्ट करेगी।
- (छ) समिति के सभी विनिश्चय बहुमत द्वारा लिए जाएंगे और 24 दिसंबर के अपश्चात् अनिवार्य रूप से कुलसचिव को संसूचित किए जाएंगे।
7. (क) वरिष्ठता सूची, जैसे ही समिति द्वारा अंतिम की जाती है, कुलसचिव द्वारा एक प्रति महाविद्यालय के अध्यापन विभाग के स्टाफ सूचना फलक पर प्रदर्शित करने के लिए और अन्य प्रति महाविद्यालय के स्टाफ के सदस्यों को संदर्भ के लिए उपलब्ध कराने के लिए प्रत्येक महाविद्यालय/अध्यापन विभाग को दो प्रतियां अग्रेषित करते हुए प्रकाशित की जाएगी।
- (ख) आपत्तिकर्ता, निवेदन पर समिति के निर्णय की प्रति कुलसचिव से रुपये 1500/- के भुगतान पर अभिप्राप्त कर सकेगा।
8. इस प्रकार अंतिम रूप से प्रकाशित सूची कलैण्डर वर्ष के 1 जनवरी से 31 दिसम्बर तक ऐसी सूची के प्रकाशन से आने वाले वर्ष तक प्रवृत्त रहेगी।
9. इस परिनियम में अन्तर्विष्ट किसी बात के होते हुए भी उस तारीख के, जिसको यह अधिनियम प्रवृत्त हुआ है, ठीक पश्चात् प्रथम वर्ष की वरिष्ठता सूची तैयार करने के मामले में प्राचार्य, आचार्य/उपाचार्य/महाविद्यालय-उपाचार्य/प्राध्यापकों द्वारा वरिष्ठता सूची में नाम सम्मिलित कराने के लिए, सूची के प्रकाशन के लिए, आपत्तियों के लिए, आपत्तियों पर समिति के विनिश्चय की संसूचना के लिए क्रमशः तारीखों पर ऊपर उल्लिखित परिनियमों द्वारा विहित की गई क्रमशः तारीखों में फेरफार, जैसा कि ऐसा फेरफार आवश्यक हो, ऐसे पाठ्यक्रम पर विचार करने के पश्चात् इस परिनियम में संलग्न प्रारूप में आवेदन तथा अंतिम रूप से दी गई वरिष्ठता सूची के प्रकाशन के लिए आवेदन कुलपति द्वारा अवधारित किया जाएगा।
10. अंतिम रूप से तैयार की गई सूची किसी व्यक्ति को केवल रु. 150/- के भुगतान पर अथवा ऐसे मूल्य पर जो कि कुलसचिव द्वारा सरकार के परामर्श से निश्चित की जाए प्रदाय की जा सकेगी।

उपाबंध**मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय, प्रधान/मुख्य कार्यालय जबलपुर**

प्राचार्यों/आचार्यों/महाविद्यालय आचार्यों/उपाचार्यों/सहायक आचार्यों/प्राध्यापकों की सूची में सम्मिलित करने के लिए आवेदन

प्रति,

कुलसचिव,
मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय,
जबलपुर

महोदय,

(मैं) निवेदन करता हूँ कि मेरा नाम की वरिष्ठता सूची में सम्मिलित किया जाए। मेरी सेवा की विशिष्टियाँ निम्नानुसार हैं:-

- (1) नाम :
- (2) जन्म तारीख :
- (3) वर्तमान में धारित पद:
- (4) तारीख जिससे वर्तमान पद धारित है:
- (5) वर्तमान पद में वेतनमान :
- (6) शैक्षणिक अर्हता :
- (7) अध्यापन अनुभव :
- स्नातक कक्षाएं वर्ष माह.....
- स्नातकोत्तर कक्षाएं वर्ष माह.....

- (8) वर्तमान पद पर नियुक्ति के पूर्व (काल क्रमानुसार) धारित किए गए अध्यापन पद :

पदाभिधान (1)	संस्था का नाम जिसमें पद धारित किया था (2)	कालावधि (3)	वेतनमान (4)
		से तक	

टिप्पण : (1) मध्यप्रदेश सरकार के अधीन शिक्षक सेवा में अध्यापक को विभिन्न महाविद्यालयों के, जहां वे किसी विशिष्ट हैसियत में पदस्थ हों, के नाम देना आवश्यक नहीं।

- (2) संवर्ग में परिवर्तन (उदाहरणार्थ प्राध्यापक/सहायक आचार्यों के उपाचार्यों, आचार्यों) के प्रत्येक मामले में नियुक्ति की तारीख सहित और वेतनमान स्पष्ट रूप से कथित किया जाए।
मैं घोषित करता हूँ कि दी हुई विशिष्टियाँ सत्य हैं।

आवेदक के हस्ताक्षर

स्थान :-

पूरा नाम

तारीख:-

पदनाम

महाविद्यालय/अध्यापन विभाग

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
सचिव, मध्यप्रदेश शासन
चिकित्सा शिक्षा विभाग

परिनियम क्रमांक-बाईस**विश्वविद्यालय की सभा के अध्यापक प्रतिनिधियों का निर्वाचन**

1. **संक्षिप्त नाम :-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विश्वविद्यालय की सभा के अध्यापक प्रतिनिधियों का निर्वाचन) परिनियम, 2013 है।
2. **परिभाषा :-** इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. **सभा के लिए निर्वाचन,—**
 - (1) धारा 21 की उपधारा (1) के समूह ख के अधीन प्रतिनिधियों का निर्वाचन साधारण बहुमत प्रणाली से किया जाएगा।
 - (2) प्रत्येक अध्यापक, जिसका नाम उक्त उपधारा के समूह ख के अधीन प्रत्येक मद के अधीन सम्मिलित किया जाता है अभ्यर्थी होने के लिए तथा निर्वाचन में मत देने के लिए अर्हित निर्वाचक होगा।
4. जहाँ कहीं भी धारा 21 की उपधारा (एक) के समूह ख की समस्त या किसी मद के अधीन निर्वाचन कराना आवश्यक हो तो कुल सचिव —
 - (क) नोटिस द्वारा विश्वविद्यालय कार्यालय के सूचना पट्ट पर उसकी प्रति चिपका कर प्रकाशित करेगा और प्रत्येक संबद्ध महाविद्यालय को उसकी दो प्रतियाँ रजिस्टर्ड डाक से भेजेगा। अध्यापन विभाग तथा प्राध्ययन केन्द्र के संदर्भ के लिए संस्था के सूचना पट्ट पर प्रदर्शित करेगा।
 - (ख) धारा 21 की उपधारा (एक) में विनिर्दिष्ट मद/मदों को जिसके अधीन सदस्यों का निर्वाचन होना है और प्रत्येक मद के अधीन निर्वाचित किए जाने वाले सदस्यों की संख्या को विनिर्दिष्ट करते हुए सभा के सदस्यों को निर्वाचन करने के लिए बुलाएगा।
 - (ग) अनन्तिम निर्वाचक नामावली में सम्मिलित नहीं किए गए किसी नाम के सम्मिलित किए जाने के दावे को प्राप्त करने या नाम सुधारने के लिए और अनन्तिम निर्वाचक नामावली में आए किसी नाम को सम्मिलित किए जाने पर आपत्ति के लिए अंतिम तारीख नियत करेगा, ऐसी तारीख नोटिस के प्रकाशन की तारीख से इक्कीसवें दिन की होगी।
 - (घ) अनन्तिम निर्वाचक नामावली में आपत्ति और दावों की जाँच की तारीख नियत करेगा जो कि दावों तथा आपत्तियों के प्राप्त होने की अनन्तिम तारीख से तीन दिन से अधिक की नहीं होगी।
 - (ङ) अंतिम निर्वाचक नामावली के प्रकाशन के लिए अंतिम तारीख उसी रीति में नियत करेगा जैसी कि अंतिम निर्वाचक नामावली के लिए थी। ऐसी तारीख, अनन्तिम निर्वाचक नामावली के संबंध में आपत्ति और दावों की जाँच के लिए नियत तारीख से सात दिन से अधिक की नहीं होगी ;
 - (च) विश्वविद्यालय कार्यालय में नामांकन प्राप्त करने के लिए अंतिम तारीख नियत करेगा जो अंतिम निर्वाचक नामावली के प्रकाशन की अंतिम तारीख से इक्कीस दिन से अधिक की नहीं होगी ;
 - (छ) नाम निर्देशन की संवीक्षा की तारीख तथा समय नियत करेगा जो नाम निर्देशनों की प्राप्ति की तारीख से तीन दिन से अधिक की नहीं होगी ;
 - (ज) अभ्यर्थिता वापस लेने की अंतिम तारीख नियत करेगा जो संवीक्षा की तारीख के पश्चात् तीसरे दिन की होगी ;
 - (झ) निर्वाचक के मत पत्र भेजने की आखिरी तारीख नियत करेगा जो कि अभ्यर्थिता वापस लेने की तारीख से सात दिन से अधिक की नहीं होगी ;
 - (ञ) मतदान के लिए स्थान, तारीख और घण्टे नियत करेगा जो अभ्यर्थिता वापस लेने की अंतिम तारीख से सात दिन से अधिक की नहीं होगी ;
 - (ट) मतों की गिनती के लिए तारीख और स्थान नियत करेगा। ऐसी तारीख मतदान की तारीख से तीन दिन से अधिक की नहीं होगी।
5. (क) कुलसचिव, निर्वाचन के लिए धारा 21 की उपधारा (1) के समूह “ख” की प्रत्येक मद के अधीन प्रत्येक महाविद्यालय/अध्यापन विभाग/अध्ययन केन्द्रों के अधीन सूचना जारी होने की दिनांक को संबंधित प्रवर्ग के अधीन पृथक से एक अनन्तिम निर्वाचक नामावली तैयार करेगा।

- (ख) कुल सचिव द्वारा अनंतिम निर्वाचक नामावली इस परिनियम के परिणियम 2 के अधीन सूचना के साथ-साथ विश्वविद्यालय कार्यालय के सूचना पटल पर उसकी प्रति चस्पा कर प्रकाशित की जाएगी तथा सम्बद्ध महाविद्यालय के प्रत्येक प्राचार्य और विश्वविद्यालय के अध्ययन विभाग/ अध्ययन केन्द्र के प्रमुख को दो प्रतियां संबंधित संस्था के सूचनापटल पर प्रदर्शन के लिए अध्यापकों द्वारा संदर्भ हेतु भेजी जाएंगी।
6. (क) कोई भी अध्यापक, जिसका नाम अनंतिम निर्वाचक नामावली में सम्मिलित नहीं किया गया है, अपना नाम सम्मिलित किए जाने के लिए प्ररूप-1 में दावा कर सकेगा।
- (ख) कोई भी अध्यापक, जिसका नाम अनंतिम निर्वाचक नामावली में सही रूप से नहीं दिया गया है, अपना नाम सही किए जाने के लिए दावा प्ररूप-2 में कर सकेगा।
- (ग) कोई भी अध्यापक, जिसका नाम अनंतिम निर्वाचक नामावली में सम्मिलित कर लिया जाता है नामावली में किसी व्यक्ति के नाम को सम्मिलित किए जाने की प्ररूप- 3 में आपत्ति कर सकेगा।
- (घ) सभी दावे और आपत्तियां, कुलसचिव को व्यक्तिगत रूप से या पंजीकृत डाक द्वारा बंद लिफाफे में जिन पर "दावे और आपत्तियां" लिखा हो परिदत्त की जाएंगी।
7. (क) अनंतिम निर्वाचक नामावली के संबंध में समस्त दावों और आपत्तियों की संवीक्षा इस प्रयोजन के लिए कुलपति तथा कुल सचिव द्वारा नामनिर्दिष्ट दो संकायाध्यक्षों से मिलकर गठित समिति द्वारा विश्वविद्यालय कार्यालय में नियत तारीख को की जाएगी और ऐसी संवीक्षा में दावा या आपत्ति करने वाला अध्यापक उपस्थित रहने का हकदार होगा। कुलपति इनमें से एक संकायाध्यक्ष को समिति का अध्यक्ष नियुक्त करेगा।
- (ख) दावों और आपत्तियों पर समिति का विनिश्चय लिखित में लेखबद्ध किया जाएगा और जांच के दिन के पूर्व अधिसूचित किया जाएगा।
- (ग) दावा प्रस्तुत करने वाले या आपत्ति उठाने वाले व्यक्ति द्वारा की गई अपील कुलपति को जाएगी इस विषय में उसका विनिश्चय अंतिम होगा। प्रत्येक अपील उस विनिश्चय की जिसके विरुद्ध अपील की जानी है, तारीख से दो दिन के भीतर कुलसचिव को लिखित में दाखिल की जाएगी।
- (घ) समस्त दावों और आपत्तियों का विनिश्चय हो जाने के पश्चात् अंतिम निर्वाचक नामावली, यदि आवश्यक हो तो, पुनरीक्षित की जाएगी और अंतिम निर्वाचक नामावली कुलसचिव द्वारा तैयार की जाएगी तथा प्रकाशित की जाएगी।
8. कुलसचिव, दावों तथा आपत्तियों की जांच के लिए नियत तारीख तक न कि उसके पश्चात् प्ररूप-4 में निरंक नामनिर्देशन-पत्र प्रत्येक महाविद्यालय/अध्यापन केन्द्रों /अध्ययन केन्द्रों को अंतिम निर्वाचक नामावली को इस अनुरोध के साथ भेजेगा कि प्ररूप उन्हीं अध्यापकों को प्रदाय किए जाएं जिन्हें उनकी आवश्यकता है। अध्यापक विश्वविद्यालय कार्यालय से निरंक नामनिर्देशन पत्र प्रदत्त कर सकेंगे।
9. इस परिनियम के खण्ड (च) के अधीन नियुक्त तारीख पर या उससे पहले प्रत्येक अभ्यर्थी,—
- (क) इसमें संलग्न, तथा अभ्यर्थी द्वारा और प्रस्तावक तथा समर्थक के रूप में दो निर्वाचकों द्वारा हस्ताक्षरित प्ररूप-4 में पूर्ण किया गया नामनिर्देशन-पत्र मुहर बंद लिफाफे में, जिस पर "नामनिर्देशन-पत्र" अंकित होगा, कार्यालय समय के बीच कुलसचिव या उसके नामनिर्देशिती को या तो व्यक्तिगत रूप से या उसके प्रस्तावक या समर्थक द्वारा परिदत्त करेगा।
- (ख) इनमें संलग्न प्ररूप-4 में संकलित किया गया तथा अभ्यर्थी और प्रस्तावक तथा समर्थक के रूप में दो निर्वाचकों द्वारा हस्ताक्षरित नामनिर्देशन-पत्र मुहरबंद लिफाफे में, जिस पर "नामनिर्देशन-पत्र" अंकित होगा, रजिस्ट्रीकृत डाक द्वारा भेजेगा।
10. प्रत्येक अभ्यर्थी पृथक नामनिर्देशन-पत्र द्वारा नामनिर्दिष्ट किया जाएगा और एक लिफाफे में एक से अधिक नामनिर्देशन-पत्र परिदत्त नहीं किए जाएंगे या, नहीं भेजे जाएंगे।
11. ऐसा लिफाफा, जिसमें नामनिर्देशन-पत्र अन्तर्विष्ट है, प्राप्त होने पर कुलसचिव या उसका नामनिर्देशिती लिफाफे पर पत्र की प्राप्ति का समय और तारीख दर्ज करेगा और प्रविष्टि पर आद्यक्षर करेगा। उक्त इस परिनियम 2 के खण्ड (च) के अधीन नियत तारीख पर कार्यालयीन समय के पश्चात् प्राप्त नामनिर्देशन-पत्रों को अस्वीकृत समझा जाएगा।
12. इस परिनियम के खण्ड (च) के अधीन नामनिर्देशन की संवीक्षा के लिए नियत तारीख और समय पर, अभ्यर्थियों और उनके प्रस्तावक या समर्थक, परन्तु कोई अन्य व्यक्ति नहीं, कुल सचिव के कार्यालय में उपस्थित नहीं हो सकेगा और कुलसचिव उन्हें उन समस्त प्रत्याशियों के नामनिर्देशन पत्रों के परीक्षण के लिए जो उक्त परिनियम में अधिकथित रीति और समय के भीतर उसके द्वारा प्राप्त किए गए हों, समस्त युक्तियुक्त सुविधाएं देगा।

13. (1) कुलसचिव नामनिर्देशन पत्रों का परीक्षण करेगा और समस्त आपत्तियों का, जो किसी भी नामनिर्देशन के लिए की गई है, विनिश्चय करेगा और वह, या तो ऐसी आपत्तियों पर या स्वप्रेरणा से संक्षेप में जांच के पश्चात्, यदि कोई हो तो, जैसी कि वह आवश्यक समझे, निम्नलिखित आधारों में से किसी भी आधार पर किसी नामनिर्देशन को निरस्त कर सकेगा :-
- (क) यह कि अभ्यर्थी इस परिनियम के परिनियम (8) एवं (9) के उपबंधों में से किसी भी उपबंध के अधीन अर्ह नहीं है या स्थान भरने हेतु चुने जाने के लिए निरर्हित है।
- (ख) यह कि वह इस परिनियम के (8) एवं (9) के उपबंधों में से किसी भी उपबंध के अनुपालन में असफल हो गया हो।
- (ग) यह कि नाम निर्देशन पर अभ्यर्थी या प्रस्तावक या समर्थक या समर्थक के हस्ताक्षर असली नहीं है।
- (घ) यह कि वह लिफाफा, जिसमें नाम निर्देशन पत्र अन्तर्विष्ट है मुहरबंद नहीं है।
- (2) यदि अभ्यर्थी अन्य ऐसे नाम निर्देशन - पत्र द्वारा, जिसके बारे में कोई अनियमितता नहीं की गई है, सम्यक् रूप से नाम निर्दिष्ट किया जाता है तो उप परिनियम (1) के खण्ड (ख) या (ग) में अंतर्विष्ट किसी बात से यह नहीं समझा जाएगा कि नाम निर्देशन पत्र के संबंध में अनियमितता के आधार पर किसी भी अभ्यर्थी का नाम निर्देशन नामंजूर किए जाने के लिए अधिकृत है।
- (3) कुलसचिव प्रत्येक नाम निर्देशन पत्र पर, नाम निर्देशन पत्र को मंजूर या नामंजूर करने के इसके (कुलसचिव के) विनिश्चय का पृष्ठांकन करेगा और यदि नाम निर्देशन पत्र नामंजूर किया गया है तो नामंजूर करने के संक्षिप्त कारण का कथन अभिलिखित करेगा। कुलसचिव का विनिश्चय अंतिम होगा।
- (4) समस्त नाम निर्देशन पत्रों की संवीक्षा होने और उनको स्वीकार करने या नामंजूर करने के विनिश्चय को अभिलिखित किए जाने के तत्काल पश्चात् कुलपति ऐसे अभ्यर्थियों को, जिनके नामनिर्देशन-पत्र विधि मान्य पाए गए हैं, एक सूची तैयार करेगा और अपने कार्यालय के सूचना पटल पर चिपकाएगा।
- (5) उक्त सूची में अभ्यर्थियों के नाम वर्णक्रम में और महाविद्यालय/अध्यापन विभाग या अध्ययन केन्द्रों के नाम जिससे वे संबंध रखते हैं, अंतर्विष्ट होंगे।
14. (1) कोई अभ्यर्थी सम्यक् रूप से उसके द्वारा हस्ताक्षरित सूचना द्वारा अपनी अभ्यर्थिता वापस ले सकेगा और उसे या तो ऐसा अभ्यर्थी स्वयं या उसके प्रस्तावक या समर्थक द्वारा इस परिनियम के परिनियम 2 के खण्ड (छ) के अधीन वापसी के लिए नियत तारीख को या उसके पूर्व कार्यालय घण्टों के दौरान कुलसचिव को परिदत्त करेगा।
- (2) किसी भी व्यक्ति को, जिसके उप परिनियम (1) के अंतर्गत अपनी अभ्यर्थिता वापस लेने का नोटिस दिया है, सूचना निरस्त करने के लिए अनुज्ञात नहीं किया जाएगा।
- (3) कुलसचिव उप परिनियम (1) के अधीन वापसी की सूचना प्राप्त होने पर यथाशक्यशीघ्र, वापसी की सूचना को कार्यालय के सूचना पटल पर चिपकवाएगा।
15. उस कालावधि के अवसान के तत्काल पश्चात् जिसके भीतर अभ्यर्थिता वापस ली जा सकती है, कुलसचिव निर्वाचन लड़ने वाले अभ्यर्थी जो, सूची में सम्मिलित किए गए हैं, नामांकित अभ्यर्थियों की विधिमान्यता और जिन्होंने उक्त कालावधि के भीतर अभ्यर्थिता वापस नहीं ली है की सूची तैयार करेगा तथा कार्यालय के सूचना पटल पर चरपा करेगा सूची में निर्वाचन लड़ने वाले अभ्यर्थियों के नाम, महाविद्यालयों के नाम, अध्ययन विभागों या अध्यापन विभागों जिससे वे संबंधित हैं उसी क्रम में जिस क्रम में इस परिनियम के उप परिनियम (12) के अधीन नामांकित अभ्यर्थियों की विधिमान्य सूची में हैं, सम्मिलित होंगे।
- (1) यदि निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या, भरे जाने वाले स्थानों की संख्या के समान है या कम हो तो इसके पश्चात् आने वाले उपबंधों के अधीन रहते हुए समस्त अभ्यर्थी निर्वाचित घोषित किए जाएंगे :
- परन्तु यदि किसी विश्वविद्यालय शिक्षण विभाग, अध्यापन केन्द्र या संबद्ध महाविद्यालय से चुनाव लड़ने वाले अभ्यर्थियों की संख्या एक से अधिक है, तो उनमें से कोई एक गुप्त मत के द्वारा हुए निर्वाचन के आधार पर निर्वाचित घोषित किया जाएगा।
- (2) स्थान जो भरे नहीं गए हैं तथा जिनके लिए कोई पात्र अभ्यर्थी नहीं है रिक्त घोषित किए जाएंगे और सभा के आगामी गठन तक खाली रहेंगे।
16. यदि निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या भरे जाने वाले पदों की संख्या से अधिक है तो मतदान कराया जाएगा और अपेक्षित संख्या में अभ्यर्थियों को इस अधिनियम के उपबंधों के अनुसार निर्वाचन किया जाएगा।

17. जहां मतदान आवश्यक है वहां निर्वाचन लड़ने वाले अभ्यर्थियों के नाम, जिनमें से निर्वाचकों को निर्वाचन करना है, मतपत्र में, उसी क्रम में जैसा कि विधिमाम्य नाम निर्देशनों की सूची में आए हैं, मुद्रित होंगे और जो महाविद्यालयों, अध्यापन विभागों या सहायक केन्द्रों के साथ जिनसे संबंधित हो विश्वविद्यालय के सूचना पट्ट पर चिपकाया जाएगा। मतपत्र के शीर्ष पर उस मद को जिसके अधीन निर्वाचन किया जाना है, और भरी जाने वाली स्थानों की संख्या को दर्शाया जाएगा। प्रत्येक मतपत्र पर कुलसचिव के हस्ताक्षर होंगे।
18. (क) प्रत्येक निर्वाचन के पास उतने मत होंगे जितने मतदान द्वारा भरे जाने हैं।
(ख) मतदाता मत देते समय मतपत्र पर उस अभ्यर्थी, जिसे वह मत देना चाहता है, के नाम के सामने क्रास चिन्ह लगाएगा।
19. (क) प्ररूप 5 में एक मतपत्र और प्ररूप 6 और 7 इसमें इसके पश्चात् क्रमशः कवर के रूप में प्रत्येक निर्वाचक को निर्दिष्ट किए जाएंगे, में दो लिफाफे द्वारा रजिस्टर्ड डाक से इस प्रयोजन के लिए नियत अंतिम तिथि को य उससे पूर्व प्रत्येक निर्वाचक को भेजे जाएंगे।
(ख) कुलसचिव, अंतिम निर्वाचक नामावली की प्रति में उस निर्वाचक का अनुक्रमांक निर्धारित करते हुए प्रविष्ट के सामने प्रत्येक मतपत्र का अनुक्रमांक अभिलिखित करवाएगा।
20. (1) मतपत्र में अपना मत दर्ज करने के पश्चात् मतदाता उसे प्ररूप 6 में रखेगा और लिफाफे को मुहरबंद कर देगा और उसे प्ररूप 7 में रखकर पत्र लिफाफा सील कर देगा और प्ररूप 7 पर निर्वाचक का नाम और निर्वाचन सूची क्रमांक होगा।
(2) निर्वाचक सीलबंद प्ररूप 7 को अनुप्रमाणन अधिकारी के पास हो जायेगा जो :—
(क) विश्वविद्यालय का कानूनी अधिकारी;
(ख) किसी महाविद्यालय का प्राचार्य होगा; या
(ग) महाविद्यालय, अध्यापन विभाग या अध्ययन केन्द्र में आचार्य या महाविद्यालय का आचार्य या उपाचार्य या सहायक आचार्य होगा;
(घ) कोई मजिस्ट्रेट होगा; अथवा
(ङ) मध्यप्रदेश राज्य या केन्द्र सरकार का राजपत्रित अधिकारी होगा तथा वह अनुप्रमाणन अधिकारी की उपस्थिति में प्ररूप 7 में इस प्रयोजन के लिए दिए गए स्थान पर अपने हस्ताक्षर करेगा। तब अनुप्रमाणन अधिकारी मतदाता की पहचान को अनुप्रमाणित करने के लिए अपने हस्ताक्षर करेगा। तब अनुप्रमाणन अधिकारी मतदाता की पहचान को अनुप्रमाणित करने के लिए अपने हस्ताक्षर, हस्ताक्षर की तारीख, सील के साथ अपना पदाभिधान और शहर का या नगर का, जिसमें उसका मुख्यालय स्थित हों, नाम, प्ररूप में इस प्रयोजन के लिए दिए गये स्थान पर करेगा। तब निर्वाचकों द्वारा व्यक्तिगत रूप से या रजिस्ट्रीकृत डाक द्वारा प्ररूप कुलसचिव को परिदत्त किया जाएगा। प्ररूप के एक सेट में एक से अधिक मतपत्र नहीं भेजे जाएंगे। कोई भी मतपत्र संदेशवाहक द्वारा नहीं भेजा जाएगा। मतपत्र प्राप्त होने पर कुलसचिव, प्ररूप पर तारीख पृष्ठांकित करेगा और मतपत्र की अंतिम तारीख की प्राप्ति होने के ऐसे मामले में प्राप्त होने का समय पृष्ठांकित करेगा और उसे तालाबंद संदूक में रखेगा। कोई मतपत्र जो वापस करने के लिए नियत तारीख को कार्यालय समय के पश्चात् प्राप्त होता है, नामजूर किया जाएगा और तालाबंद पृथक संदूक में रखा जाएगा।
21. मतपत्र शून्य होगा, यदि
(क) यदि निर्वाचक ने भरे जाने वाले स्थानों से अधिक मत दिए हो, अथवा
(ख) उस पर निर्वाचक द्वारा हस्ताक्षर किए गए हो; अथवा
(ग) उस पर कोई चिन्ह नहीं लगाया गया हो या अनिश्चितता होने के कारण शून्य हो, अथवा
(घ) निर्वाचक द्वारा प्ररूप 7 पर हस्ताक्षर नहीं किये गए हो, अथवा
(ङ) ऐसे मामले में जहां प्ररूप 7 पर हस्ताक्षर नहीं किये गए हो, अथवा
(च) प्ररूप 7 सम्यक रूप से सीलबंद नहीं किया गया हो:
परंतु यह कि जहां किसी मत/किन्ही मतों के बारे में अनिश्चितता हो परंतु निर्वाचक द्वारा दिए गए समस्त मतों के बारे में नहीं, मतपत्र केवल अनिश्चितता की हद तक ही शून्य होगा।
22. कुलपति द्वारा नियुक्त तीन व्यक्तियों की समिति की उपस्थिति में मतों की गणना की समस्त कार्यवाही की जाएगी। प्रत्येक निर्वाचक को कार्यवाही में उपस्थित रहने का अधिकार होगा, बशर्त, कुलसचिव की राय में उससे कार्यवाही का व्यवधान नहीं होता हो
23. मतों की गणना के लिए नियत तारीख और स्थान पर कुलसचिव वह सन्दूक जिसमें मतपत्रों के प्ररूप हैं, अन्तर्विष्ट हैं खोलेगा। तब वह प्ररूप 7 का परीक्षण करेगा और मतपत्र निरस्त करेगा, यदि
(क) निर्वाचन में मत देने के लिए प्राधिकृत व्यक्ति द्वारा प्ररूप 7 सम्यक रूप से हस्ताक्षरित नहीं किया गया हो;
(ख) लिफाफे पर हस्ताक्षर सम्यक रूप से अनुप्रमाणित न हो; अथवा
(ग) प्ररूप 7 सम्यक रूप से सीलबंद न हो।

इस परिनियम के अधीन नामंजूर प्ररूप 7 नहीं खोले जाएंगे तथा उन्हें एक पृथक् पार्सल में रखा जाएगा। वह तब प्ररूप 7 हटाएगा और समस्त प्ररूप 6 एक साथ रखेगा। उसके पश्चात् वह प्ररूप 6 खोलेगा और मत पत्र की छटनी करेगा। वह मत पत्र जो इस परिनियम के अधीन अविधिमान्य हैं, नामंजूर करेगा। वह शेष मत पत्रों में से विभिन्न अभ्यर्थियों के पक्ष में मतों की गणना करेगा।

24. (1) सभी मतों की गणना के पश्चात् कुलसचिव अभ्यर्थियों की सूची जो प्राप्त किए गए मतों के क्रम में व्यवस्थित की गई हो, तैयार करेगा अधिकतम संख्या में मत प्राप्त करने वाले अभ्यर्थी को सूची में प्रथम चरण पर रखा जाएगा :

परंतु किसी विश्वविद्यालय अध्यापन विभाग, अध्ययन केन्द्रों या महाविद्यालय से दो या अधिक, अभ्यर्थी हो तो प्रत्येक ऐसे अध्यापन विभाग, अध्ययन केन्द्रों या महाविद्यालयों में से अधिकतम संख्या में मत प्राप्त करने वाले अभ्यर्थी को ही सूची सम्मिलित किया जाएगा तथा शेष को अपवर्जित दिया जाएगा।

(क) यदि ऐसे स्थानों में, जिनके लिए मतदान किया गया है, कोई ऐसा स्थान सम्मिलित है/हैं, जो निर्वाचन लड़ने वाले किसी विशिष्ट प्रवर्ग के लिए आरक्षित है/हैं, और ऐसे प्रवर्ग के निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या ऐसे प्रवर्ग के लिए आरक्षित स्थानों की संख्या के बराबर है और निर्देशित सूची में उच्चतम हैं, तो उपरोक्त अभ्यर्थी निर्वाचित घोषित किए जाएंगे।

(ख) आरक्षित स्थानों के निर्वाचन को परिणाम के पश्चात् यदि भरे जाने वाले शेष उन स्थानों की संख्या निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या के समान और उन अभ्यर्थियों में से जो उपरोक्त खण्ड (क) के अधीन निर्वाचित घोषित नहीं किए गए हैं, बनाई गई सूची में उच्चतम हैं निर्वाचित घोषित कि जाएंगे।

(ग) जब दो या अधिक अभ्यर्थियों ने समान मत प्राप्त किए हों, तब चुनाव का परिणाम लाटरी निकाल कर विनिश्चित किया जाएगा।

- (2) यदि ऐसे स्थानों पर, जिनके लिए मतदान हो चुका है और जिनमें आरक्षित स्थान सम्मिलित नहीं है। हैं निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या भरे जाने वाले स्थानों की संख्या के समान हो तो उनके नाम उसी क्रम में निर्वाचित घोषित किए जाएंगे जिसमें उनके नाम उपर्युक्त सूची में ऊपर आए हैं।

- (3) किसी अभ्यर्थी या निर्वाचक द्वारा विश्वविद्यालय के सूचना पट्ट पर निर्वाचन का परिणाम घोषित होने के दस दिन के भीतर किसी अभ्यर्थी के विरुद्ध निर्वाचन याचिका कुलपति को प्रस्तुत की जा सकेगी। याचिका पर कुलपति का आदेश अंतिम होगा।

25. सभा हेतु समूह-ख के वर्ग (नौ) तथा (दस) के अधीन निर्वाचित अध्यापकों के निबंधन सभा के निबंधनों के साथ होंगे।

प्ररूप-1

(अधिनियम की धारा 21 की उपधारा (1) के मद क्रमांक के अधीन विश्वविद्यालय सभा पर प्रतिनिधित्व के लिए निर्वाचन)

निर्वाचन नामावली में नाम सम्मिलित करने हेतु दावा आवेदन
प्रति,

कुलसचिव

..... विश्वविद्यालय,

.....

महोदय,

मैं (पदनाम, उदाहरणार्थ, आचार्य/सहायक आचार्य/प्राध्यापक)

महाविद्यालय/अध्यापन विभाग/ अध्यापन केन्द्र में (माह तथा वर्ष) से हूँ।

मैं निवेदन करता हूँ कि मेरा नाम इस अधिनियम की धारा 21 की उपधारा (1) के मद के अधीन निर्वाचन के लिए निर्वाचन नामावली में सम्मिलित किया जाए।

स्थान

हस्ताक्षर

तारीख

पूरा नाम

पद नाम

संस्था का नाम

जहां नियोजित हैं

मैं महाविद्यालय/अध्यापन विभाग/अध्यापन केन्द्र का प्राचार्य प्रमाणित करता हूँ कि श्री
 पदनाम महाविद्यालय/अध्यापन विभाग या अध्यापन केन्द्र में
 (माह..... तथा वर्ष) से हैं।
 स्थान हस्ताक्षर
 तारीख पूरा नाम

पद नाम

संस्था का नाम

प्ररूप-2

(अधिनियम की धारा 21 की उपधारा (1) के मद के अधीन विश्वविद्यालय सभा पर प्रतिनिधियों का निर्वाचन)
 नाम सुधारने हेतु दावा

प्रति,

कुलसचिव
 विश्वविद्यालय,

महोदय,

मैं निवेदन करता हूँ कि स्वयं से संबंधित प्रविष्ट, जो अनंतिम निर्वाचन नामावली में अनुक्रमांक
 पर आई है, सही नहीं है। इसे निम्नानुसार पढ़े जाने हेतु सुधारा जाए।

स्थान हस्ताक्षर
 तारीख पूर्ण नाम

पद नाम

संस्था का नाम

जहां नियोजित हैं

प्ररूप 3

अधिनियम की धारा 21 की उपधारा (1) के मद के अधीन विश्वविद्यालय की सभा के प्रतिनिधित्व के लिए
 निर्वाचन)

नये नाम सम्मिलित हाने की आपत्ति

प्रति,

कुलसचिव
 विश्वविद्यालय,

महोदय,

मैं निम्नलिखित कारणों से अनुक्रमांक के नाम निर्वाचन नामावली में सम्मिलित किए जाने की आपत्ति करता हूँ

कारण :-

मैं, एतद् द्वारा, यह घोषित करता हूँ कि उक्त उल्लिखित तथ्य मेरे सर्वोत्तम ज्ञान और विश्वास से सत्य हैं। मेरा नाम अनंतिम
 निर्वाचन नामावली में सरल क्रमांक पर है।

स्थान हस्ताक्षर
 तारीख पूरा नाम

पद नाम

संस्था का नाम

जहां नियोजित हैं

प्ररूप 4**नमांकन प्ररूप**

अधिनियम की धारा 21 की उपधारा (1) के मद क्रमांक..... के अधीन विश्वविद्यालय की सभा के प्रतिनिधित्व का निर्वाचन

मैं (पूरा नाम)श्री/श्रीमती/कुमारी
..... का नाम प्रस्तावित करता हू जिसका नाम अधिनियम की धारा (2) की उपधारा (1) के मद के अधीन विश्वविद्यालय की सभा के सदस्य की तरह अनंतिम निर्वाचन नामावली में अनुक्रमांक पर आता है।

हस्ताक्षर

पूरा नाम

अंतिम निर्वाचन नामावली में अनुक्रमांक.....

संस्था का नाम जहां नियोजित हैं

मैं (पूरा नाम)अधिनियम की धारा 21 की उपधारा (1) के मद के अधीन
..... विश्वविद्यालय पर की सभा के स्थान पर अभ्यर्थी के रूप में अपने नाम निर्देशन को अपनी सहमति देता हूँ।

हस्ताक्षर

पूरा नाम

(क्रमांक)

अंतिम निर्वाचन नामावली में अनुक्रमांक.....

पदनाम

संस्था का नाम जहां नियोजित हैं

प्ररूप - 5

अनुक्रमांक विश्वविद्यालय

मत पत्र

अधिनियम की धारा 21 की उपधारा (1) के समूह ख के मद क्रमांकके अधीन सभा के
..... (शिक्षक का प्रवर्ग)का निर्वाचन।

निर्वाचित किए जाने वाली कुल संख्याके लिए निर्दिष्ट स्थानों की संख्या

(एक)

(दो)

अनुक्रमांक मत	अभ्यर्थियों की संख्या	संस्था जहां नियोजित है	सरकारी/गैर सरकारी संस्था का नाम महिला अध्ययन विभाग, अध्ययन केन्द्र
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टिप्पण : -

- (1) निर्वाचक के पास उतने ही मत हैं जितने कि स्थान भरे जाना है।
- (2) मत देते समय निर्वाचक को किसी विशेष संवर्ग के लिए आरक्षित स्थानों का ध्यान रखना होगा।
- (3) निर्वाचक, जिस अभ्यर्थी को वह मत देना चाहता है उसके सामने खाली स्थान में क्रॉस चिन्ह (x) लगाएगा।
- (4) किसी भी विश्वविद्यालय/अध्यापन विभाग, अध्ययन केन्द्र या महाविद्यालय से एक व्यक्ति से अधिक निर्वाचित नहीं किया जाएगा।
- (5) निर्वाचक मतपत्र में अपने हस्ताक्षर नहीं करेगा।

प्ररूप - 6

- (क) यह प्ररूप सम्यक रूप से मुहरबन्द होना चाहिए।
- (ख) इस प्ररूप में केवल एक प्ररूप 5 अंतर्विष्ट होना चाहिए।
- (ग) मत पत्र में प्ररूप होगा।
- (घ) कृपया हस्ताक्षर न करें या कोई अन्य पहचान चिन्ह न लगाएं।

प्ररूप - 7**रजिस्ट्रीकृत पत्र**

(प्ररूप मुहरबन्द होना चाहिए
इसमें केवल एक प्ररूप 6 अंतर्विष्ट होना चाहिए)

से :

मतदाता के हस्ताक्षर

मतदाता का नाम

अंतिम निर्वाचक नामावली में अनुक्रमांक

पता

श्री

कुलसचिव

.....

.....

मेरी उपस्थिति में हस्ताक्षर किए गए

अनुप्रमाणित करने वाले

अधिकारी के हस्ताक्षर विश्वविद्यालय

पदाभिधान

तारीख

नगर

मुहर

परिनियम क्रमांक — तेईस**न्यायालय हेतु रजिस्ट्रीकृत स्नातकों का निर्वाचन
(अधिनियम की धारा 21 की उपधारा (1) की मद (चौदह) देखिए)**

1. **संक्षिप्त नाम .—** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय सभा के रजिस्ट्रीकृत स्नातकों का निर्वाचन परिनियम, 2013 है ।
2. **परिभाषाएं :—** इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो ,—
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. **निर्वाचन का तरीका :—** अधिनियम की धारा 21 की उपधारा (1) की मद (चौदह) के अधीन विश्वविद्यालय के रजिस्ट्रीकृत स्नातकों में से सभी के प्रतिनिधियों का निर्वाचन उनके बीच में से एकल संक्रमणीय मत के द्वारा आनुपातिक प्रतिनिधित्व प्रणाली के अनुसार किया जाएगा।
4. **निर्वाचक :—**
 - (क) प्रत्येक व्यक्ति, जो जारी की गई सूचना द्वारा नियत की गई निर्वाचन की तारीख के नब्बे दिन पूर्व रजिस्ट्रीकृत या पुनः रजिस्ट्रीकृत स्नातक हो, अभ्यर्थी के रूप में खड़े होने के लिए तथा धारा 21 की उपधारा (1) मद (चौदह) के अधीन रजिस्ट्रीकृत स्नातकों के प्रतिनिधियों के निर्वाचन में मत देने के लिए अर्ह होगा,
 - (ख) राज्य के भीतर किसी विश्वविद्यालय या किसी महाविद्यालय का कोई भी वैतनिक कर्मचारी निर्वाचन के लिए पात्र नहीं होगा।
5. **(क) नामांकन तथा कार्यक्रम का नियत किया जाना**

जहां कहीं भी सभा के रजिस्ट्रीकृत स्नातकों के प्रतिनिधियों का निर्वाचन करना आवश्यक हो, कुलसचिव, विश्वविद्यालय के सूचना पटल पर नोटिस की प्रति चस्पा करके और ऐसे समाचार पत्र में प्रकाशित कर, जैसा कुलपति निदेशित करे —

 - (एक) रजिस्ट्रीकृत स्नातक के रूप में रजिस्ट्रीकरण या पुनः रजिस्ट्रीकरण के लिए अंतिम तारीख घोषित करेगा जोकि व्यक्ति को अभ्यर्थी के रूप में खड़े होने के लिए तथा निर्वाचन में मत देने के लिए हकदार बनाएगी, ऐसी अंतिम तारीख निर्वाचन की तारीख से नब्बे दिनों पूर्व की होगी ।
 - (दो) ऐसे रजिस्ट्रीकृत स्नातकों से जो ऊपर पैरा (एक) में नियत की गई तारीख को या उसके पूर्व रजिस्ट्रीकृत हुए हैं, निर्वाचित किये जाने वाले सदस्यों की संख्या विनिर्दिष्ट करते हुए, सभा के सदस्यों का निर्वाचन करने के लिए अपेक्षा करेगा।
 - (तीन) नामांकन की प्राप्ति के लिए अंतिम तारीख नियत करेगा, ऐसी अंतिम तारीख सूचना (नोटिस) के प्रकाशन की तारीख के पश्चात् पैंतालीसवें दिन की होगी।
 - (चार) नामांकन की संवीक्षा के लिए तारीख तथा समय नियत करेगा जोकि नामांकन की तारीख के लिए अंतिम तारीख के पश्चात् पाँचवें दिन की होगी।
 - (पांच) अभ्यर्थी का नाम वापस लेने के लिए अंतिम तारीख तथा समय नियत करेगा जो कि नामांकन की संवीक्षा के लिए तारीख के पश्चात् दसवें दिन की होगी।
 - (छह) मतदाताओं के लिए मतदान के लिए स्थान, तारीख तथा घण्टे नियत करना।
 - (सात) मतपत्रों की गणना के लिए स्थान, तारीख तथा घण्टे नियत करेगा जो कि मतदान की तारीख से दो दिन बाद की नहीं होगी।

टिप्पण :-

- (1) सामान्यतः पैरा (एक) के अधीन अंतिम तारीख कार्य दिवस की होगा।
 - (2) उपरोक्त खण्डों में से किसी खण्ड के पैरा (एक) को छोड़कर, नियत दिन यदि अवकाश हो तो ठीक उत्तरवर्ती दिन, जोकि अवकाश का दिन नहीं है, इस प्रयोजन के लिए नियत किया जाएगा।
- (ख) **नामांकन पत्रों की उपलब्धता :-** इस परिनियम से संलग्न नामांकन पत्र प्ररूप 'क' में, इस परिनियम के अधीन सूचना जारी होने के पश्चात् किसी भी कार्य दिवस को कार्यालयीन समय के दौरान, विश्वविद्यालय से प्राप्त किए जा सकेंगे।
- (ग) **नामांकन प्ररूपों का फाइल किया जाना**
परिनियम 5 के खण्ड (तीन) के अधीन नियत की गई तारीख को या उसके पूर्व प्रत्येक अभ्यर्थी :-
- (एक) संलग्न प्ररूप 'क' में पूर्ण किया गया नामांकन पत्र, जो अभ्यर्थी तथा प्रस्तावक और समर्थक के रूप में हस्ताक्षरित तथा सम्यक् रूप से अधिप्रमाणित हो, एक सील बन्द लिफाफे में, जिस पर नामांकन पत्र अंकित हो, कार्यालय समय के बीच या तो व्यक्तिशः या उसके प्रस्तावक या समर्थक द्वारा कुलसचिव या उसके नामनिर्देशिती को देगा।
 - (दो) संलग्न प्ररूप 'क' में, पूर्ण नामांकन पत्र जो अभ्यर्थी द्वारा तथा प्रस्तावक तथा समर्थक के रूप में हस्ताक्षरित और सम्यक् रूप से अधिप्रमाणित किया गया हो, एक सीलबंद लिफाफे में, जिस पर नामांकन पत्र अंकित हो, कुलसचिव या उसके नामनिर्देशिती को रजिस्ट्रीकृत डाक द्वारा भेजेगा।
- (घ) प्रत्येक अभ्यर्थी एक पृथक नामांकन पत्र द्वारा नामनिर्दिष्ट किया जाएगा तथा एक लिफाफे में एक से अधिक नामांकन पत्र नहीं दिए या भेजे जाएंगे।
- (ङ) नामांकन पत्र की प्राप्ति पर, उसे प्राप्त करने वाला कुलसचिव या उसका नामनिर्देशिती, लिफाफे पर पत्र के प्राप्ति की तारीख तथा समय की प्रविष्टि करेगा तथा प्रविष्टि पर संक्षिप्त हस्ताक्षर करेगा। परिनियम पांच के खण्ड (तीन) के अधीन नियत की गई तारीख या उसके पूर्व कार्यालयीन समय के दौरान प्राप्त नहीं किए गए नामांकन पत्र रद्द माने जाएंगे।
6. **नामांकन पत्रों की संवीक्षा :-** इस परिनियम के खण्ड (चार) के अधीन नामांकन की संवीक्षा के लिए नियत की गई तारीख और समय पर, अभ्यर्थी, उनके प्रस्तावक या समर्थन, परन्तु कोई अन्य व्यक्ति नहीं कुलसचिव के कार्यालय में ऐसे समय पर उपस्थित रह सकेगा जैसा कि कुलसचिव द्वारा नियत किया गया हो तथा कुलसचिव समस्त अभ्यर्थियों के उन नामांकन पत्रों की जो समय के भीतर तथा परिनियम 7 में अधिकथित रीति में प्राप्त किए गए हों, परीक्षा करने के लिए युक्तियुक्त सुविधाएं प्रदान करेगा।
7. **नामांकन पत्र का रद्द किया जाना :-**
- (क) कुलसचिव, तब नामांकन पत्र का परीक्षण करेगा तथा समस्त उद्देश्यों का विनिश्चय करेगा या स्वप्रेरणा, से, ऐसी संक्षिप्त जांच, यदि कोई हो, जैसी कि वह आवश्यक समझे, करने के पश्चात् किसी नामांकन पत्र को निम्नलिखित आधारों में से किसी भी आधार पर रद्द कर सकेगा :
 - (एक) कि अभ्यर्थी अर्ह नहीं है या अधिनियम या उसके अधीन बनाए गए परिनियमों के किन्हीं उपबंधों के अधीन स्थान भरने के लिए चुने जाने के लिए निरर्हित किया गया है।
 - (दो) कि इस परिनियम के परिनियम 7 के उपबंधों में से किसी उपबंध का पालन करने में असफल रहा हो,
 - (तीन) कि नामांकन पत्र पर अभ्यर्थी, प्रस्तावक, या समर्थक के हस्ताक्षर असली नहीं है।
 - (चार) कि नामांकन पत्र से अंतर्विष्ट लिफाफा मुहरबंद नहीं है।
 - (ख) उप परिनियम (1), के खण्ड (ख) या (ग) में की कोई बात, नामांकन पत्र के संबंध में अनियमितता के आधार पर किसी अभ्यर्थी के नामांकन को नामंजूर करने के लिए प्राधिकृत करता नहीं समझी जाएगी यदि अभ्यर्थी को किसी दूसरे नामांकन पत्र द्वारा सम्यक् रूप से नामनिर्दिष्ट कर दिया गया हो जिसके संबंध में कोई अनियमितता नहीं की गई है।
 - (ग) कुलसचिव प्रत्येक नामांकन पत्र पर उसका स्वीकृत या नामंजूर करने के विनिश्चय को पृष्ठांकित करेगा और यदि नामांकन पत्र नामंजूर किया जाता है, तो ऐसी नामंजूरी के लिए कारणों सहित संक्षिप्त विवरण को लेखबद्ध करेगा कुलसचिव का विनिश्चय अंतिम होगा।

- (घ) विधिमान्य रूप से नामनिर्दिष्ट अभ्यर्थियों की सूची :- समस्त नामांकन पत्रों की संवीक्षा तथा उनके स्वीकृत या नामजूर विनिश्चय को लेखबद्ध करने के ठीक पश्चात्, कुलसचिव विधिमान्य रूप से नामनिर्दिष्ट अभ्यर्थियों की सूची तैयार करेगा, इस सूची में नाम वर्ष क्रमानुसार होंगे तथा निर्वाचन लड़ने वाले अभ्यर्थियों के वही पते होंगे जो नामांकन पत्रों में दिए गए हों।

8. अभ्यर्थिता की वापसी :-

- (एक) कोई भी अभ्यर्थी उसके द्वारा लिखित में सम्यक् रूप से हस्ताक्षरित सूचना द्वारा इस परिनियम के अधीन नाम वापस लेने के लिए नियत तारीख को या उसके पूर्व स्वयं व्यक्तिशः या उसके प्रस्ताव का या समर्थक द्वारा कुलसचिव या उसके नामनिर्देशिनी को परिदत्त करके अपनी अभ्यर्थिता वापस ले सकेगा।
- (दो) कोई भी व्यक्ति, जिसने उपरोक्त उप परिनियम (एक) के अधीन अपनी अभ्यर्थिता की वापसी लेने के लिए सूचना दी है वह सूचना को रद्द करने के लिए अनुज्ञात नहीं किया जाएगा।
- (तीन) कुलसचिव, उप परिनियम (1) के अधीन वापसी की सूचना प्राप्त होने पर उसके कार्यालय के सूचना पट्ट पर वापसी की सूचना चस्पा करवाएगा।

9. निर्वाचन लड़ने वाले अभ्यर्थियों की सूची :-

- (एक) ऐसी कालावधि के, जिसके भीतर इस परिनियम के खण्ड (पांच) के अधीन अभ्यर्थिता वापस ली जा सकेगी, अवसान के ठीक पश्चात् कुलसचिव निर्वाचन लड़ने वाले ऐसे अभ्यर्थियों की, जोकि विधिमान्य रूप से नामनिर्दिष्ट अभ्यर्थियों की सूची में सम्मिलित किए गए हैं तथा जिन्होंने उक्त कालावधि के भीतर अपनी अभ्यर्थिता वापस नहीं ली है, सूची तैयार करेगा और अपने कार्यालय के सूचना पट्ट पर चस्पा करवाएगा।
- (दो) उक्त सूची में निर्वाचन लड़ने वाले अभ्यर्थियों के नाम वर्णक्रमानुसार अंतर्विष्ट होंगे तथा निर्वाचन लड़ने वाले अभ्यर्थियों के पते नामांकन पत्रों में दिए अनुरूप होंगे।

10. निर्वाचन :-

- (एक) यदि निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या भरे जाने वाले स्थानों की संख्या के बराबर हो, तो कुलसचिव तत्काल ऐसे समस्त अभ्यर्थियों को उन स्थानों को भरने के लिए सम्यक् रूप से निर्वाचित घोषित करेगा।
- (दो) यदि निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या भरे जाने वाले स्थानों की संख्या से कम हो तो कुलसचिव तत्काल ऐसे समस्त अभ्यर्थियों को निर्वाचित घोषित करेगा। शेष स्थान सभा के अगले गठन तक बिना भरे रहेंगे।
- (तीन) यदि निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या, भरे जाने वाले स्थानों की संख्या से अधिक हो तो इसमें इसके पश्चात् उपबंधित रीति से मतदान होगा।

11. मतपत्रों पर अभ्यर्थियों के नामों का वर्णन

प्ररूप - 'ख' में अभ्यर्थियों के नाम मतपत्र पर उसी क्रम में मुद्रित किए जाएंगे जैसे कि इस परिनियम के अधीन विधिमान्य रूप से नामनिर्दिष्ट अभ्यर्थियों की विश्वविद्यालय के कार्यालय के सूचना पट्ट पर चस्पा की गई सूची में हैं।

12. व्यक्तिशः मतदान करना :

समस्त मतदाता अपना मत इसमें इसके पश्चात् विहित व्यक्तिशः मतदान द्वारा अभिलिखित कराएगा।

13. निर्णायक मत का तरीका :-

- (एक) प्रत्येक निर्वाचक को उतनी अधिमानता होगी जितनी रिक्विरां भरी जानी हैं-
- (दो) निर्वाचक अपना मत देने में .-
- (क) मतपत्र पर अभ्यर्थी के नाम के सामने के स्थान पर अंक एक रखेगा जिसको कि वह प्रथम अधिमानता देता है ; और

- (ख) इसके अतिरिक्त वह अपने मतपत्र पर पश्चात्पूर्वी अधिमानता जितनी वह चाहे अंक दो, तीन, चार इत्यादि अधिमानता के क्रम में अभ्यर्थियों के नाम के सामने चिह्नित करेगा।
14. **रिटर्निंग अधिकारी :** — कुलसचिव निर्वाचन हेतु रिटर्निंग अधिकारी तथा मतदान केन्द्र हेतु पीठासीन अधिकारी होगा। कुलपति ऐसे घंटे नियत करेगा जिस दौरान मतदान केन्द्र लिया जाएगा तथा इस परिनियम के अधीन जारी की जाने वाली सूचना के प्रकाशन के घंटे नियम करेगा।
15. **चुनाव लड़ने वाले अभ्यर्थियों की सूची का प्रदर्शन :** — इस परिनियम के अधीन चुनाव लड़ने वाले अभ्यर्थियों की सूची की एक प्रति मतदान केन्द्र के बाहर सूचना पट्ट पर लगाई जाएगी।
16. **मतपेटी का आकार :** — प्रत्येक मतपेटी ऐसे आकार की होगी जैसी कि कुलपति द्वारा अनुमोदित की जाए।
17. **मतदान कक्ष :** —
- (एक) मतदान केन्द्र पर एक या उससे अधिक मतदान कक्ष बनाए जाएंगे जिनमें निर्वाचक अपने मत को संप्रेक्षण में रख सकें।
- (दो) मतदान केन्द्र पर पर्याप्त संख्या में मतपेटियां, निर्वाचक नामावलियों की प्रतियां तथा मत पत्र उपलब्ध कराए जाएंगे।
18. **मतदान केन्द्र पर निर्वाचकों के प्रवेश को विनियमित करना :** — पीठासीन अधिकारी मतदान केन्द्र के भीतर किसी एक समय में प्रवेश देने के लिए निर्वाचकों की संख्या को विनियमित करेगा तथा मतदान अधिकारियों, अभ्यर्थियों तथा उनके निर्वाचन अभिकर्ताओं के (प्रत्येक अभ्यर्थी के लिए एक मतदान अभिकर्ता) के अलावा समस्त व्यक्तियों को वहां से अपवर्जित करेगा।
19. **मतदान अभिकर्ता की नियुक्ति :** —
- (एक) मतदान अभिकर्ता की नियुक्ति अभ्यर्थी द्वारा प्ररूप 'ग' में की जाएगी तथा मतदान अभिकर्ता को मतदान केन्द्र पर मतदान के लिए या मतदान के लिए नियत स्थान पर भेज दिया जाएगा ;
- (दो) मतदान प्रारंभ होने से तत्काल पूर्व पीठासीन अधिकारी मतदान अभिकर्ताओं तथा अन्य उपस्थित व्यक्तियों को निर्देशित करेगा कि मतपेटी खाली है ; और
- (तीन) पीठासीन अधिकारी तथा मतदान अभिकर्ता की निगरानी में मतपेटियां बंद कर दी जाएंगी, सीलबंद तथा सुरक्षित रखी जाएंगी, तथापि, मतपेटियों को इस रीति में सीलबंद किया जाएगा कि उनमें मत पत्र डालने के लिए दरार खुली रहे।
20. **निर्वाचकों की पहचान :** —
- (एक) पीठासीन अधिकारी, ऐसे व्यक्तियों को, जैसा कि वह उपयुक्त समझे, निर्वाचकों की पहचान में सहायता या उनको अन्यथा मतदान में सहायता के लिए नियोजित कर सकेगा।
- (दो) कुलसचिव द्वारा प्रत्येक रजिस्ट्रीकृत स्नातक को कार्यपालिक परिषद् द्वारा समय-समय पर निर्धारित की गई निश्चित फीस के भुगतान पर पहचान पत्र जारी किए जाएंगे। रजिस्ट्रीकृत स्नातक की फोटोचित्र, कुलसचिव द्वारा सम्यक् रूप से प्रमाणित कर पहचान पत्र पर चिपकाई जाएगी।
- (तीन) जैसे ही प्रत्येक निर्वाचक मतदान केन्द्र में प्रवेश करता है, पीठासीन अधिकारी अथवा उसके द्वारा इस निमित्त प्राधिकृत मतदान अधिकारी निर्वाचक का नाम तथा अन्य विशिष्टियां निर्वाचन नामावली में सुसंगत प्रविष्टि के साथ, रजिस्ट्रेशन क्रमांक तथा निर्वाचक के नाम की जांच करेगा।
- (चार) किसी व्यक्ति के मत पत्र प्राप्त करने के अधिकार का विनिश्चय करने में यथास्थिति, पीठासीन अधिकारी या मतदान अधिकारी निर्वाचन नामावली में किसी प्रविष्टि में सिर्फ लिपिकीय अथवा मुद्रण त्रुटियों को अनदेखा करेगा यदि वह संतुष्ट है कि ऐसा व्यक्ति उस निर्वाचक से समरूप है जिससे ऐसी प्रविष्टि संबंधित है।

21. **मतदान स्थल पर निर्वाचकों को मत पत्र जारी करना :** — मतदान स्थल पर निर्वाचक को मत पत्र जारी करते समय मतदान अधिकारी मतपत्र के प्रतिपत्र पर निर्वाचक के हस्ताक्षर लेगा।
22. **मतदान स्थल पर मत देने की प्रक्रिया :** — मत पत्र प्राप्त होने पर निर्वाचक तत्काल —
- (क) मतदान कक्ष की ओर अग्रसर होगा ;
 - (ख) मत पत्र पर एक चिन्ह लगाएगा जैसा कि पैराग्राफ 18 में उपबंधित है, मत पत्र को मोड़ेगा ताकि वह अपना मत छुपा सके ;
 - (ग) मत पत्र को मोड़कर मत पेटी में डालेगा और मतदान केन्द्र को छोड़ देगा।
23. **मतदान का समापन :** —
- (एक) इस परिनियम के अधीन पीठासीन अधिकारी, उस निमित्त किए गए घंटे पर मतदान केन्द्र को बंद करेगा तथा तत्पश्चात् कोई भी निर्वाचक मतदान केन्द्र के अंदर प्रवेश नहीं करेगा।
 - (दो) पीठासीन अधिकारी, मतदान बंद होने के पश्चात्, यथाशक्य शीघ्र, मत पेटी की दरार को बंद कर देगा, उसे सीलबंद करेगा तथा किसी भी उपस्थित अभिकर्ता को अपनी मुद्रा लगाने के लिए अनुज्ञात करेगा। तत्पश्चात् मतपेटी सीलबंद तथा सुरक्षित हो जाएगी।
24. (1) **मतों की गणना :** — इस परिनियम के अधीन मतों की गणना रिटर्निंग अधिकारी द्वारा नियत स्थान, दिनांक एवं समय पर की जाएगी।
- (2) **गणना समिति की उपस्थिति में की जाएगी :** — गणना कुलपति द्वारा नियुक्त तीन व्यक्तियों की समिति की उपस्थिति में की जाएगी। तथापि अभ्यर्थी अथवा उसके अभिकर्ता को गणना के समय उपस्थित रहने का अधिकार होगा, बशर्ते कि रिटर्निंग अधिकारी की राय में, उनकी उपस्थिति से गणना में व्यवधान न हो।
25. **मतपत्रों का नामंजूर किया जाना :** — रिटर्निंग अधिकारी मत पत्रों की छंटनी करेगा। वह ऐसे मत पत्रों को नामंजूर करेगा :
- (क) जिस पर अंक 1 चिन्हित न किया गया हो ; या
 - (ख) जिस पर एक या एक से अधिक अभ्यर्थियों के नाम के सामने अंक 1 हो या इस प्रकार रखा गया हो कि यह शंका हो कि किस अभ्यर्थी को अधिमानित करने को आशयित है या ;
 - (ग) जिस पर अंक 1 तथा कुछ अन्य अंक अथवा अंकों को उसी अभ्यर्थी के नाम के सामने रखा गया हो ; या
 - (घ) यदि वह चिन्हित न हो अथवा अनिश्चितता के कारण शून्य हो ; या
 - (ङ) यदि उस पर निर्वाचक द्वारा हस्ताक्षर किए गए हों।
26. **गणना की प्रक्रिया :** —
- (एक) नामंजूर किए गए समस्त मत पत्रों को पृथक् रखा जाएगा तथा शेष मत पत्रों को दो पार्सलों में विभाजित करके प्रथम अधिमानता के आधार पर प्रत्येक अभ्यर्थी के लिए रखा जाएगा। रिटर्निंग अधिकारी तब प्रत्येक पार्सल में पत्रों की संख्या की गणना करेगा।
 - (दो) इसमें इसके पश्चात् दिए गए पैराग्राफ के उपबंधों को पूर्ण करने के लिए रिटर्निंग अधिकारी :

- (क) सभी भिन्नो की उपेक्षा करेगा।
- (ख) पूर्व से ही निर्वाचित या मतदान से अपवर्जित अभ्यर्थियों के लिए अभिलिखित समस्त अधिमानताओं की उपेक्षा करेगा।
- (तीन) इसमें इसके पश्चात् अंतर्विष्ट परिनियम द्वारा विहित की गई प्रक्रिया को सुकर बनाने के प्रयोजन के लिए, प्रत्येक विधिमान्य मत पत्र का मूल्य एक सौ समझा जाएगा।
27. **कोटे का अभिनिश्चय :** — कुलसचिव सभी पार्सलों में से पत्रों के मूल्यों को एक साथ जोड़ेगा तथा उसके योग को ऐसी संख्या से विभाजित करेगा जो भरी जाने वाली रिक्तियों की उस संख्या से एक अधिक हो। इसके परिणाम स्वरूप एक के बढ जाने से ऐसी संख्या होगी जो अभ्यर्थी की वापसी को सुनिश्चित करने के लिए पर्याप्त होगी, जिसे इसमें इसके पश्चात् कोटा कहा गया है।
28. **कोटे सहित अभ्यर्थी निर्वाचित घोषित किए जाएं :** — यदि किसी भी समय अभ्यर्थियों की संख्या निर्वाचित किए जाने वाले व्यक्तियों की संख्या के बराबर कोटा प्राप्त कर लिया हो तो उस अभ्यर्थी को निर्वाचित माना जाएगा तथा कोई अन्य कदम नहीं उठाया जाएगा।
- (1) **अधिशेष का अंतरण :** —
- (एक) कोई अभ्यर्थी, जिसके पार्सल का मूल्य प्रथम अधिमान की गणना की जाने पर कोटे से अधिक अथवा उसके बराबर हो, निर्वाचित घोषित किया जाएगा।
- (दो) यदि किसी भी ऐसे पार्सल में पत्रों का मूल्य कोटे के बराबर हो तो पत्रों को इस प्रकार निरस्त कर दिया जाएगा जैसा कि उसका अंतिम निराकरण कर दिया गया हो।
- (तीन) यदि किसी भी ऐसे पार्सल में पत्रों का मूल्य कोटे से अधिक है तो अधिक शेष मतपत्रों में दर्शाए गए विद्यमान अभ्यर्थियों को, उनके आगामी अभ्यर्थियों के रूप में मतदाता के अधिमान के क्रम में निम्नलिखित परिनियम में विहित रीति में अंतरित कर दिया जाएगा।
- (2) (एक) यदि तथा जो भी इस परिनियम के उपबंधों के अनुसार अभ्यर्थी के पास अधिशेष हो तो ऐसे अधिशेष इस परिनियम द्वारा विहित किसी कार्यान्वयन के परिणामस्वरूप अंतरित कर दिया जाएगा।
- (दो) यदि एक से अधिक अभ्यर्थी के पास अधिशेष हों तो सर्वाधिक अधिशेष पर पहले तथा अन्य पर बाद में महत्ता के अनुसार कार्यवाही की जाएगी, बशर्ते कि प्रत्येक अधिशेष जो मतों की प्रथम गणना में आता है उस पर द्वितीय तथा पश्चात्वर्ती से पूर्व कार्यवाही की जाएगी।
- (तीन) जहां दो अथवा उससे अधिक अधिशेष समान हों, कुल सचिव निर्णय करेगा कि किस पर पहले कार्यवाही की जाएगी, जैसा कि इसमें इसके पश्चात् इस परिनियम में उपबंधित है
- (क) यदि अंतरित किया जाने वाला किसी अभ्यर्थी का अधिशेष केवल भूल मतों से उद्भूत होता है तो कुलसचिव, अंतरित किए गए उप पार्सल के समस्त पत्रों का परीक्षण करेगा जो कि अभ्यर्थी से संबंधित हैं, तथा उस पर अभिलिखित आगामी प्राथमिकताओं के अनुसार शेष पत्रों को उप पार्सलों में विभाजित करेगा।
- (ख) वह प्रत्येक उपपार्सल तथा अप्रयुक्त पत्रों में पत्रों के मूल्यों का अभिनिश्चय करेगा।
- (ग) यदि अप्रयुक्त पत्रों का मूल्य अधिशेष से कम अथवा उसके समान है तो वह उन समस्त अप्रयुक्त पत्रों का अंतरण उस मूल्य पर करेगा जिस पर वे उस अभ्यर्थी द्वारा प्राप्त किए गए हों जिसके अधिशेष का अंतरण किया जाना है।

- (घ) यदि अप्रयुक्त पत्रों का मूल्य अधिशेष से अधिक है, तो वह अप्रयुक्त के उपपार्सलों को अंतरित करेगा तथा वह मूल्य जिस पर प्रत्येक पत्र अंतरित किया जाएगा, अप्रयुक्त पत्रों की कुल संख्या द्वारा अधिशेष को विभाजित कर अभिनिश्चित किया जाएगा।
- (ङ) यदि अभ्यर्थी का अतिशेष जो कि अंतरित किया जाना है अंतरण के साथ ही मौलिक मतों से उद्भूत हो तो कुलसचिव, अभ्यर्थी को अंतिम अंतरित किए गए उप पार्सल में समस्त पत्रों का पुनः निरीक्षण करेगा तथा आगामी विद्यमान अभिलेखों के आधार पर अप्रयुक्त पत्रों को उप पार्सलों में विभाजित करेगा। तत्पश्चात् वह उप पार्सलों को उसी रीति में जैसी कि इस परिनियम के उप-परिनियम (4) में निर्दिष्ट उप पार्सलों के मामले में उपबंधित है।
- (च) प्रत्येक अभ्यर्थी को अंतरित किए गए पत्र उप-पार्सलों के ऐसे प्ररूप में जोड़े जाएंगे जो पत्र पूर्व से ही ऐसे अभ्यर्थी से संबंधित हों।
- (छ) निर्वाचित अभ्यर्थी के इस परिनियम के अधीन अंतरित न किए गए निर्वाचित अभ्यर्थी के पार्सल अथवा उप-पार्सल को अलग कर दिया जाएगा जैसी अंतिम कार्यवाही कर दी गई हो।

29. मतदान केन्द्र से अपवर्जन : -

- (एक) जैसा कि पूर्व में निर्देशित किया गया है यदि समस्त अधिशेषों को अंतरित करने के पश्चात्, अभ्यर्थी अपेक्षित संख्या से कम निर्वाचित हुए हों, तो कुलसचिव, मतदान केन्द्र पर निम्नतम रहे अभ्यर्थी का मतदान केन्द्र से अपवर्जन कर देगा तथा जारी अभ्यर्थियों के बीच आगामी विद्यमान अभिलेख के आधार पर अप्रयुक्त पत्र बांटेगा। कोई भी अप्रयुक्त पत्र अलग कर दिया जाएगा जैसे कि अंतिम रूप से कार्यवाही कर दी गई हो।
- (दो) ऐसे पत्र जिनमें अपवर्जित अभ्यर्थी के मूल मत अंतर्विष्ट हों को पहले अंतरित किया जाएगा। प्रत्येक पत्र का अंतरण मूल्य एक सौ होगा।
- (तीन) ऐसे पत्र, जिनमें अपवर्जित व्यक्ति के मूल मत अंतर्विष्ट हों को अंतरण के अनुक्रम में उस मूल्य पर अंतरित किया जाएगा जितना उन्हें प्राप्त हुआ है।
- (चार) ऐसा प्रत्येक अंतरण पृथक अंतरण समझा जाएगा परंतु पृथक नहीं गिना जाएगा।
- (पाँच) इस पैराग्राफ द्वारा निर्देशित प्रक्रिया, मतदान में उन अभ्यर्थियों में से जो मतदान में सबसे नीचे हैं एक के पश्चात् अन्य अभ्यर्थियों के क्रमबद्ध अपवर्जन में तब तक दोहराया जाएगा जब तक या तो कोटे के अंतर्गत अभ्यर्थी के निर्वाचन द्वारा या इसमें इसके पश्चात् उपबंधित रिक्ति न भरी जाए।
- (छह) यदि इस परिनियम के अधीन पत्रों के अंतरण के परिणामस्वरूप अभ्यर्थी द्वारा प्राप्त की गई मतों के मूल्य समान हों या कोटे से अधिक हो तो अंतरण की कार्यवाही पूर्ण हो जाएगी किन्तु उसे कोई अतिरिक्त पत्र अंतरित नहीं किया जाएगा।

30. निर्वाचित अभ्यर्थियों की घोषणा : -

- (एक) यदि इस परिनियम के अधीन, किसी भी अंतरण के पूर्ण होने के पश्चात् किसी भी अभ्यर्थी के मतों के मूल्य समान अथवा कोटे से अधिक हों, तो उसे निर्वाचित घोषित कर दिया जाएगा।
- (दो) यदि किसी ऐसे अभ्यर्थी के मतों के मूल्य कोटे के समान हों, समस्त पत्र जिन पर कि मत अभिलिखित है, अपास्त कर दिए जाएंगे। जैसे कि उन पर अंतिम कार्यवाही हो गई हो।
- (तीन) यदि किसी ऐसे अभ्यर्थी के मतों के मूल्य कोटे से अधिक हों तो तत्पश्चात् उसका अधिशेष किसी अन्य अभ्यर्थी के अपवर्जन से पूर्व इसमें इसके पश्चात् उपबंधित रीति से वितरित किया जाएगा।

31. (एक) जब विद्यमान अभ्यर्थियों की संख्या बिना भरी हुई रिक्तियों की संख्या से कम कर दी जाए तो विद्यमान अभ्यर्थी निर्वाचित घोषित कर दिए जाएंगे।
- (दो) यदि केवल एक रिक्ति बिना भरी रह जाती है तो और किसी व्यक्ति के मतों का मूल्य विद्यमान अभ्यर्थी के समस्त मतों के कुल मूल्य से अधिक है, किसी भी अधिशेष के साथ अंतरित नहीं किया जाएगा, उस अभ्यर्थी को निर्वाचित घोषित कर दिया जाएगा।
- (तीन) जब केवल एक रिक्ति बिना भरी रह जाती है और वहाँ केवल दो विद्यमान अभ्यर्थी हों, तथा उन दोनों अभ्यर्थियों में प्रत्येक मतों के मूल्य समान हों तथा कोई अधिशेष अंतरण योग्य शेष न रह जाए तो एक अभ्यर्थी आगामी उत्तरवर्ती परिनियम के अधीन अपवर्जित घोषित किया जाएगा तथा दूसरे को निर्वाचित घोषित कर दिया जाएगा।
32. **अपवर्जन के लिए लाट निकालना :** — यदि वहाँ जहाँ कि वितरण के लिए एक से अधिक अधिशेष हों, दो अथवा उससे अधिक अधिशेष समान हों, अथवा यदि किसी भी समय किसी अभ्यर्थी को अपवर्जित करना आवश्यक हो जाता है और दो अथवा उससे अधिक अभ्यर्थियों के मतों के मूल्य समान हों, तो प्रत्येक अभ्यर्थी के मूल मतों को वरीयता दी जाएगी, और ऐसे अभ्यर्थी जिनके कि कुछ ही मूल मत अभिलिखित किए गए हों उसके अधिशेष को पहले वितरित किया जाएगा अथवा यथास्थिति पहले अपवर्जित किया जाएगा। यदि उनके मूल मतों के मूल्य समान हों, तो कुलसचिव, लाट द्वारा विनिश्चित करेगा कि किस अभ्यर्थी को उसके अधिशेष का वितरण या अपवर्जन किया जाना है।
33. **पुनर्गणना :** —
- (क) कोई अभ्यर्थी अथवा, उसकी अनुपस्थिति में, उसका मतदान केन्द्र अभिकर्ता मतों की गणना के दौरान किसी भी समय मतों के किसी भी अंतरण के या तो प्रारंभ होने के पूर्व अथवा पूर्ण होने के पश्चात् (चाहे अधिशेष या अथवा) कुल सचिव से समस्त या किसी भी अभ्यर्थी के पत्रों के पुनः परीक्षण तथा पुनर्गणना की प्रार्थना करता है (ऐसे पत्रों को नहीं जो किसी पूर्व अंतरण पर अपास्त कर दिए गए हों जैसे कि अंतिम कार्यवाही हो गई हो), तथा कुलसचिव तत्काल ही तदनुसार पुनः परीक्षण तथा पुनर्गणना करेगा।
- (ख) कुलसचिव अपने स्वविवेकानुसार किसी भी मामले में, जिसमें वह किसी पूर्व गणना से संतुष्ट नहीं है, मतों की एक अथवा एक से अधिक बार पुनर्गणना करा सकता है :
- परंतु खण्ड (ख) में की कोई बात कुलसचिव को उन्हीं मतों की एक बार से अधिक पुनर्गणना के लिए बाध्य नहीं करेगी।
34. **निर्वाचन याचिका :** — किसी भी निर्वाचित अभ्यर्थी के विरुद्ध किसी भी अभ्यर्थी या निर्वाचक या इस निमित्त प्राधिकृत किसी अभिकर्ता द्वारा कुलपति को विश्वविद्यालय के सूचनापटल पर निर्वाचन के परिणाम के प्रकाशन की दिनांक से प्रद्वह दिन के भीतर पेश की जा सकेगी। याचिका पर कुलपति का आदेश अंतिम होगा।
35. **निर्वचन :** — इस परिनियम के निर्वचन के संबंध में यदि कोई प्रश्न उद्भूत होता है तो विनिश्चय के लिए कुलपति को निर्दिष्ट किया जाएगा तथा कुलपति द्वारा किया गया विनिश्चय अंतिम तथा बाध्यकारी होगा।

प्ररूप 'क'
नामांकन - पत्र

(अधिनियम की धारा 21 (1) (चौदह) के अधीन मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय रजिस्ट्रीकृत स्नातक प्रतिनिधि के रूप में
.....विश्वविद्यालय सभा के निर्वाचन के लिए)

अभ्यर्थी का पूरा नाम : -----
अभ्यर्थी का रजिस्ट्रीकरण क्रमांक -----
अभ्यर्थी का पता -----

मैं, रजिस्ट्रीकृत स्नातकों में से सभा के निर्वाचन हेतु अभ्यर्थी के रूप में श्री -----
रजिस्ट्रीकरण क्रमांक -----
का नाम प्रस्तावित करता हूँ ।

प्रस्तावक का पूरा नाम -----
प्रस्तावक का रजिस्ट्रीकरण क्रमांक -----

तारीख

प्रस्तावक के हस्ताक्षर
पता -----

मैं उपरोक्त प्रस्ताव का समर्थन करता हूँ ।

समर्थक का पूरा नाम -----

समर्थक का रजिस्ट्रीकरण क्रमांक -----

तारीख

समर्थक के हस्ताक्षर
पूरा पता : -----

अभ्यर्थी की सहमति

मैं, एतद्वारा, उपरोक्त नामांकन को अपनी सहमति देता हूँ तथा प्रस्तावक द्वारा उल्लिखित निर्वाचन हेतु खड़े होने के लिए अपनी स्वीकृति प्रदान करता हूँ ।

तारीख

अभ्यर्थी के हस्ताक्षर
नाम बड़े अक्षरों में
पूरा पता
रजिस्ट्रीकरण क्रमांक

प्रमाण – पत्र

प्रमाणित किया जाता है कि प्रस्तावक, समर्थक तथा अभ्यर्थी ने मेरी उपस्थिति में हस्ताक्षर किए।

तारीख

अनुप्रमाणन अधिकारी के हस्ताक्षर

अनुप्रमाणन अधिकारी का पता

नाम बड़े अक्षरों में

पदनाम

टिप्पण :-

1. प्रत्येक अभ्यर्थी पृथक-पृथक नामांकन पत्र द्वारा नामांकित किया जाएगा।
2. एक लिफाफे में एक नामांकन पत्र से अधिक नहीं भेजे जाएंगे।
3. नामांकन पत्र एक सीलबंद लिफाफे में रजिस्ट्रार या उसके नामनिर्देशित व्यक्ति या रजिस्ट्रीकृत डाक द्वारा भेजा जाना चाहिए।
4. प्रत्येक निर्वाचक उतने अभ्यर्थियों को नामांकित करने के लिए अर्ह है जितनी कि रक्तियां हों।

प्ररूप 'ख'**मत – पत्र**

अनुक्रमांक	रजिस्ट्रीकृत स्नातकों के रजिस्टर में अभ्यर्थियों का रजिस्ट्रीकरण क्रमांक	अभ्यर्थियों का नाम	मत में प्राथमिकता का क्रम
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प्ररूप 'ग'**मतदान अभिकर्ता की नियुक्ति**

अधिनियम की धारा 21 (1) की मद (चौदह) के अधीन सभा पर रजिस्ट्रीकृत स्नातकों के प्रतिनिधि का निर्वाचन

मैं (यहां अभ्यर्थी का नाम तथा रजिस्ट्रीकरण क्रमांक का उल्लेख करें), जो कि उपरोक्त निर्वाचन में एक अभ्यर्थी है, एतद्वारा के श्री/श्रीमती को उपरोक्त निर्वाचन में मतदान केन्द्र/मतदान के लिए नियत स्थान पर मतदान अभिकर्ता के रूप में उपस्थित होने के लिए नियुक्त करता हूँ।

अभ्यर्थी के हस्ताक्षर

स्थान

तारीख

मैं मतदान अभिकर्ता के रूप में कार्य

करने हेतु स्वीकृति देता हूँ।

स्थान

मतदान अभिकर्ता के हस्ताक्षर

तारीख

.....

..... (बड़े अक्षरों में नाम)

मतदान अभिकर्ता द्वारा पीठासीन अधिकारी के समक्ष हस्ताक्षरित घोषणा

मैं, एतद्वारा, यह घोषणा करता हूँ कि, उपरोक्त निर्वाचन में, मैं ऐसा कुछ नहीं करूँगा जो कि राजिस्ट्रीकृत स्नातकों की सभा के निर्वाचन परिनियम क्रमांक 23 द्वारा निषिद्ध हो, जिसको मैं पढ़ चुका हूँ ।

मेरे समक्ष हस्ताक्षरित

तारीख

हस्ताक्षर मतदान अभिकर्ता

स्थान

(बड़े अक्षरों में नाम)

हस्ताक्षर पीठासीन अधिकारी

परिनियम क्रमांक – चौबीस
सभा के लिए विद्यार्थी सदस्यों का निर्वाचन

1. **संक्षिप्त नाम .-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय सभा के लिए विद्यार्थी सदस्यों का निर्वाचन परिनियम, 2013 है।
2. **परिभाषाएं .-** इस परिनियम में, जब तक संदर्भ से अन्यथा अपेक्षित न हों ,—
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3.
 - (1) समस्त निर्वाचन साधारण बहुमत एवं गोपनीय मतपत्र द्वारा किए जाएंगे।
 - (2) रजिस्ट्रार रिटर्निंग अधिकारी होगा और वह मतदान का संचालन करेगा।
 - (3) जब कभी भी इस अधिनियम की धारा 21 की उपधारा (1) के समूह घ के अधीन कोई निर्वाचन किया जाना हो, तब कुलसचिव, विश्वविद्यालय के कार्यालय सूचना पटल पर अधिसूचना द्वारा उस मद की, जिसके अधीन निर्वाचन होना है, निर्वाचित किए जाने वाले सदस्यों की संख्या और मतदान की तारीख की घोषणा करेगा, जो मतदान की घोषणा की तारीख से 21 दिन पूर्व की नहीं होगी।
4.
 - (1) कुलसचिव, मतदान की तारीख की घोषणा के साथ साथ:—
 - (क) विश्वविद्यालय के कार्यालय के सूचना पटल पर प्रत्येक मद के अधीन निर्वाचन के लिए निर्वाचकों के नाम, पृथक् रूप से ऐसे नामों वाली सूची की एक प्रति चस्पा करके प्रकाशित करेगा ;
 - (ख) सभा के सदस्यों के निर्वाचन के लिए, ऊपर परिनियमों के परिनियम 5 के अधीन जारी की गई अधिसूचना की प्रति, निर्वाचकों के नामों की सूची प्रत्येक निर्वाचक को रजिस्ट्रीकृत डाक द्वारा भेजेगा तथा मतदान की तारीख को दिए गए समय पर विश्वविद्यालय के कार्यालय में निर्वाचकों की सूचना प्रस्तुत की जाएगी।
 - (2) निर्वाचक को पूर्वोक्त उप-पैरा (1) (ख) के उपबंधों के अनुसार विश्वविद्यालय के मुख्यालयों तक यात्रा के लिए यात्रा भत्ता तथा दैनिक भत्ता उस दर से, जो अंतर्महाविद्यालयीन प्रतियोगिता में भागीदार विद्यार्थियों के मामले में लागू है, उस महाविद्यालय द्वारा जिसका वह निर्वाचक है, निर्वाचक को भुगतान किया जाएगा।

5. ऊपर परिनियम 4 के उप – परिनियम (दो) के खण्ड (ख) के अधीन नियत समय पर मतदान की तारीख पर, कुलसचिव, –
- (क) प्रत्येक निर्वाचक की पहचान के संबंध में, पहचान पत्र या महाविद्यालय या घटक महाविद्यालय के प्राचार्य या विश्वविद्यालय अध्यापन विभाग या प्राध्ययन केन्द्र के प्रमुख द्वारा अनुप्रमाणित फोटो की जांच करके स्वयं का समाधान करेगा,
- (ख) इस परिनियम से संलग्न प्रारूप (क) में निर्वाचन के लिए अभ्यर्थियों को नामांकित करने के लिए निर्वाचकों को बुलाएगा और नामांकन भरने के लिए एक घण्टा अनुज्ञात करेगा। प्रत्येक अभ्यर्थी एक निर्वाचक द्वारा प्रस्तावित और समर्थित किया जाएगा। प्रत्येक अभ्यर्थी पृथक् नामांकन पत्र द्वारा नामांकित किया जाएगा।
- (ग) नामनिर्देशन पत्रों को भरने में नियत समय का अवसान होने पर, कुलसचिव निर्वाचकों की उपस्थिति में नामांकन पत्रों की संवीक्षा करेगा और ऐसी समस्त आपत्तियों का विनिश्चय करेगा जो किसी नामांकन के संबंध में की गई हो। कुलसचिव, ऐसी आपत्ति पर या स्वप्रेरणा से किसी भी प्रकार से अपूर्ण या त्रुटिपूर्ण नामांकन पत्र को, नामंजूर कर सकेगा।
- (घ) नामांकन पत्रों की संवीक्षा के पश्चात्, विधिमान्य रूप में नामांकित अभ्यर्थियों की घोषणा बैठक में करेगा और नामांकन वापस लेने के लिए केवल आधा घण्टे का समय अनुज्ञात किया जाएगा।
- (ङ) कुलसचिव नाम वापसी के समय का अवसान हो जाने के पश्चात् निर्वाचन लड़ने वाले ऐसे अभ्यर्थियों के नामों की घोषणा करेगा जो विधिमान्य रूप से नामांकित हैं तथा जिन्होंने नाम वापस नहीं लिए हैं। यदि निर्वाचन लड़ने वाले अभ्यर्थियों की संख्या, निर्वाचित किए जाने वाले सदस्यों की संख्या से कम या बराबर है तो ऐसे समस्त अभ्यर्थियों को निर्वाचित घोषित कर दिया जाएगा। यदि निर्वाचन लड़ने वाले ऐसे अभ्यर्थियों की, जो विधिमान्य रूप से नाम निर्दिष्ट थे तथा जिन्होंने नाम वापस नहीं लिया है, संख्या निर्वाचित किए जाने वाले सदस्यों की संख्या से अधिक है, तो मतदान किया जाएगा।
- (च) जहां मतदान आवश्यक हो वहां कुल सचिव निर्वाचकों को मतदान करने के लिए बुलाएगा तथा मतदान का समय नियत करेगा, जो कि दो घण्टे से कम का नहीं होगा। कुलसचिव द्वारा प्रत्येक मतदाता को प्रारूप – ख में एक मतपत्र दिया जाएगा जिसमें अभ्यर्थियों के नाम वर्णक्रम के अनुसार दर्शाए जाएंगे। प्रत्येक मतदाता उतने अभ्यर्थियों को मत दे सकेगा जितनी संख्या में सदस्यों को निर्वाचित किया जाना है। प्रत्येक निर्वाचक मतदान करते समय उस अभ्यर्थी के जिसको वह अपना मत देना चाहता है, नाम के समक्ष दी गई जगह में (x) का चिन्ह लगाएगा।
- (छ) मतदान समाप्त होने पर मतों की गणना की जाएगी और कुलसचिव उन अभ्यर्थियों के नाम उनके द्वारा प्राप्त किए गए मतों के क्रम में दर्शाते हुए सूची तैयार करेगा, उन अभ्यर्थियों के नाम सूची में शीर्ष पर होंगे जिन्होंने अधिकतम संख्या में मत प्राप्त किए हैं। ऐसे अभ्यर्थी जिनकी संख्या, निर्वाचित किए जाने वाले अभ्यर्थियों की संख्या के बराबर है तो ऐसे अभ्यर्थियों को निर्वाचित घोषित किया जाएगा जिन्होंने अधिकतम मत प्राप्त किए हैं। जब दो या अधिक अभ्यर्थियों ने समान संख्या में मत प्राप्त किए हों वहाँ निर्वाचन का परिणाम लाट निकालकर विनिश्चित किया जाएगा।
- (ज) किसी मत पत्र को नामंजूर किया जाएगा यदि :—
- (1) वह चिन्हित नहीं है या अनिश्चितता के कारण शून्य हो,
 - (2) वह निर्वाचक द्वारा हस्ताक्षरित हो,
 - (3) यदि निर्वाचक ने निर्वाचित की जाने वाले अभ्यर्थियों की संख्या से अधिक के लिए अपना मत अभिलिखित किया हो :
- परन्तु जहाँ किसी निर्वाचक ने निर्वाचित की जाने वाली अभ्यर्थियों की संख्या से अधिक के लिए मत न दिया हो और उसके द्वारा दिए गए मतों के संबंध में अनिश्चितता हो तो वहाँ मतपत्र को केवल उस सीमा तक नामंजूर किया जाएगा जिस सीमा तक मत अनिश्चित है।
6. कोई भी निर्वाचन, निर्वाचक द्वारा निर्वाचन की किसी सूचना की अप्राप्ति के कारण अविधिमान्य नहीं होगा।

7. किसी अभ्यर्थी या निर्वाचक द्वारा किसी निर्वाचित अभ्यर्थी के विरुद्ध कोई निर्वाचन याचिका, निर्वाचन का परिणाम विश्वविद्यालय के सूचना पटल पर प्रकाशित होने की तारीख से दस दिन के भीतर, कुलपति को प्रस्तुत की जा सकेगी । याचिका पर कुलपति का आदेश अंतिम होगा ।

प्रारूप—क
नामांकन पत्र

(अधिनियम की धारा 21 की उपधारा (1) की मद संख्या के अधीन विश्वविद्यालय की सभा के छात्रों का निर्वाचन)

मैं अधिनियम की धारा 21 की उपधारा (10) की मद संख्या.....के अधीन विश्वविद्यालय की सभा के सदस्य के रूप में श्री के नाम का प्रस्ताव करता हूँ।

प्रस्तावक के हस्ताक्षर

मैं.....(पूरा नाम) उपरोक्त प्रस्ताव का समर्थन करता हूँ।

समर्थक के हस्ताक्षर

मैं अधिनियम की धारा 21 की उपधारा (1) के मदके अधीन विश्वविद्यालय की सभा में स्थान के लिए उम्मीदवार के रूप में, मैं मेरे नामांकन के लिए अपनी सहमति देता हूँ।

उम्मीदवार के हस्ताक्षर

प्ररूप-ख**मत पत्र**

(अधिनियम की धारा 21 की उपधारा (1) की मद संख्या के अधीनविश्वविद्यालय की सभा के छात्रों का निर्वाचन)

अनुक्रमांक	उम्मीदवार का नाम	मत

- टीप:- (1) निर्वाचक को उम्मीदवार के नाम के सामने दिए गए स्थान में क्रॉस का चिन्ह (X) लगाना चाहिए जिसको कि वह अपना मत देना चाहता है।
- (2) निर्वाचक उतने मत दे सकता है जितनी संख्या में स्थान निर्वाचन द्वारा भरे जाने हैं।

परिनियम क्रमांक – पच्चीस**वार्षिक रिपोर्ट**

- विश्वविद्यालय की वार्षिक रिपोर्ट में शैक्षणिक वर्ष की 1 जुलाई से 30 जून तक की कालावधि का समावेश होगा तथा सभा को, उक्त कालावधि की समाप्ति के पश्चात् आयोजित होने वाले उसके वार्षिक सम्मिलन में प्रस्तुत की जाएगी।
- विश्वविद्यालय की वार्षिक रिपोर्ट की प्रतियां 31 दिसम्बर या उसके पूर्व, उस कालावधि जिससे वह संबंधित है, के अवसान होने के ठीक पश्चात् उस तारीख से जिसको उक्त कालावधि का अवसान होने के पश्चात् सभा का वार्षिक सम्मिलन आयोजित किया जाना है, से कम से कम पन्द्रह दिन पूर्व, इनमें से जो भी पूर्वतर हो, सभा के सदस्यों के बीच परिचलित की जाएंगी।

परिनियम क्रमांक – छब्बीस

महाविद्यालयों/संस्थाओं को विश्वविद्यालय के विशेषाधिकारों को स्वीकृत करने हेतु शर्त एवं ऐसे विशेषाधिकारों का प्रत्याहरण

1. **संक्षिप्त नाम.—** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (महाविद्यालयों/संस्थाओं को विश्वविद्यालय के विशेषाधिकारों को स्वीकृत करने हेतु शर्त एवं ऐसे विशेषाधिकारों का प्रत्याहरण) परिनियम, 2013 है।
2. **परिभाषाएं.—** इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. (1) विश्वविद्यालय पूरे राज्य में, दोनो आधुनिक एवं भारतीय चिकित्सा पद्धति तथा संबद्ध स्वास्थ्य विज्ञानों को सम्मिलित करते हुए स्वास्थ्य विज्ञानों से संबंधित समस्त महाविद्यालयों और संस्थाओं पर अपनी संबद्धता की शक्ति का प्रयोग करेगा। किसी शैक्षणिक संस्था/महाविद्यालय को विश्वविद्यालय के विशेषाधिकार स्वीकृत करने के लिए कोई आवेदन निम्नलिखित रीति में किया जाएगा :-
 - (क) शासन द्वारा धारित तथा अनुरक्षित महाविद्यालय की दशा में, ऐसे महाविद्यालय/संस्था में नवीन कार्यक्रम/पाठ्यक्रम/विषय/ संकाय/ स्नातकोत्तर कक्षाएं जोड़े जाने के लिए या वर्तमान पाठ्यक्रम की क्षमता बढ़ाने के लिए, सरकार द्वारा इस प्रयोजन के लिए लिखित में प्राधिकृत किसी अधिकारी द्वारा;
 - (ख) शासन द्वारा स्वशासी घोषित पूर्व शासकीय महाविद्यालय/संस्था की दशा में, ऐसे आवेदन करने के लिए प्रबंधन बोर्ड के संकल्प द्वारा प्राधिकृत महाविद्यालय/संस्था का प्राचार्य/संकायाध्यक्ष द्वारा;
 - (ग) किसी समिति या किसी न्यास (जो इसमें इसके पश्चात् समिति के रूप में निर्दिष्ट है) द्वारा धारित तथा अनुरक्षित किसी महाविद्यालय/संस्था की दशा में, ऐसा आवेदन करने के लिए संकल्प द्वारा प्राधिकृत समिति के सचिव द्वारा;
 - (घ) शासकीय निकाय के अध्यक्ष द्वारा, शासकीय अनुदान प्राप्त विद्यमान अशासकीय महाविद्यालय/संस्था में जोड़े जाने वाले नए पाठ्यक्रम/कार्यक्रम/संकाय/ स्नातकोत्तर कक्षा की दशा में, आगामी शैक्षणिक वर्ष जिससे संबद्धता चाही गई है, 31 दिसम्बर तक न कि उसके पश्चात् विश्वविद्यालय के कुल सचिव को आवेदन करने के लिए प्रबंधन बोर्ड के संकल्प द्वारा प्राधिकृत महाविद्यालय/संस्था के प्राचार्य द्वारा;
- (2) विद्यमान स्वास्थ्य विज्ञान महाविद्यालय की श्रेणी के अंतर्गत आने वाले मध्यप्रदेश के चिकित्सा एवं दंत चिकित्सा विज्ञान महाविद्यालय, जो राज्य के अन्य विश्वविद्यालय से संबद्ध थे, उनकी संबद्धता मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय को अंतरित हो जाएगी, जो कि विश्वविद्यालय अधोसंरचना के पूर्ण होने के अध्यधीन शैक्षणिक सत्र 2013-2014 से प्रभावी होगी, जो कि मध्यप्रदेश शासन द्वारा मध्यप्रदेश आयुर्विज्ञान अधिनियम, 2011 की धारा 6 की उपधारा (2) के अधीन अधिसूचना की तारीख से प्रभावी होगा। संबद्धता के अंतरण के प्रयोजन के लिए ये महाविद्यालय विश्वविद्यालय को आवेदन करेंगे।
 - (क) संबद्धता के अंतरण के प्रयोजन के लिए शैक्षणिक सत्र 2013-2014 के पूर्व स्नातक एवं स्नातकोत्तर पाठ्यक्रमों में प्रवेश चाह रहा बैच, विश्वविद्यालय का प्रथम बैच होगा।
 - (ख) सत्र 2013-2014 से, महाविद्यालयों को स्नातक/परास्नातक एवं उपाधिपत्र परीक्षा में विश्वविद्यालय के विशेषाधिकार से प्रवेश के लिए, समय समय पर विश्वविद्यालय द्वारा यथाविहित शुल्क का भुगतान करेगा।
 - (ग) मध्यप्रदेश राज्य में स्वास्थ्य विज्ञान शिक्षा महाविद्यालय/संस्था, नर्सिंग तथा सहचिकित्सा को सम्मिलित करते हुए आयुष तथा सहबद्ध स्वास्थ्य विज्ञान से संबंधित ऐसे अन्य महाविद्यालय, जो कि विद्यमान स्वास्थ्य विज्ञान महाविद्यालय की श्रेणी के अंतर्गत आते हैं और जो राज्य के अन्य महाविद्यालयों से संबद्ध हैं, उनकी संबद्धता चिकित्सा शिक्षा विभाग, मध्यप्रदेश शासन की अधिसूचना द्वारा शैक्षणिक सत्र 2014-2015 स्वतः ही मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय को अंतरित हो जाएगी।

- (घ) संबद्धता के अंतरण के प्रयोजन के लिए, ये महाविद्यालय मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय को आवेदन करेंगे। सत्र 2014-2015 से, महाविद्यालय, विश्वविद्यालय स्नातक/परास्नातक तथा उपाधिपत्र परीक्षा के विशेषाधिकार से प्रवेश के लिए समय समय पर विश्वविद्यालय द्वारा यथाविहित शुल्कों का भुगतान करना होगा।
- (ङ) संस्था के कार्यालय में, विश्वविद्यालय से संपर्क स्थापित करने के लिए, नीचे वर्णित उचित और नवीनतम सूचना प्रौद्योगिकी उपस्कर अधोसंरचनात्मक संचार सुविधाएं होनी चाहिए:-
- (एक) फ़ैक्स
- (दो) अपेक्षित संख्या में (पी-V) या उच्च प्रोसेसर के साथ नवीनतम विशिष्टियों वाला कम्प्यूटर, अनुज्ञप्त सॉफ्टवेयर (मायक्रो साफ्ट-ऑफिस, प्रोफेशनल विजुअल फाक्सप्रो, विजुअल बेसिक) जैसा कि समय समय पर विश्वविद्यालय द्वारा विहित किया जाए, कम से कम एक लेजर प्रिंटर और एक डाट मैट्रिक्स प्रिंटर और अन्य जैसा कि समय समय पर विश्वविद्यालय द्वारा विहित किया जाए।
- (तीन) एक हाई स्पीड फोटो कॉपियर।
- (चार) इंटरनेट कनेक्शन सहित टेलीफोन।
- (पांच) ऊपर दी गई समस्त मशीनों को चलाने के लिए अनुकूल इंवर्टर और यू पी एस।
- (च) संस्था के प्रमुख का यह मुख्य उत्तरदायित्व होगा कि वह यह सुनिश्चित करे कि हार्डवेयर, साफ्टवेयर और अधोसंरचना के साथ साथ शिक्षित मानव शक्ति, जैसी कि विश्वविद्यालय द्वारा समय समय पर विहित की जाए, उपलब्ध कराई जाए तथा स्वचालित प्रणाली की निरन्तर उपलब्धता सुनिश्चित करने के लिए उसे सदैव अच्छी स्थिति में रखा जाए।
- (3) पत्रोपाधि, स्नातक या स्नातकोत्तर कार्यक्रम में नए विषय में संबद्धता के लिए आवेदन निम्नलिखित दस्तावेज के साथ किया जाना चाहिए,-
- (क) मूल समिति के संविधान की प्रति (समझौता ज्ञापन);
- (ख) सम्पत्ति का न्यास विलेख तथा स्वत्व विलेख की सत्यापित प्रति, यदि कोई हो;
- (ग) संस्था द्वारा चाहे गए नए कार्यक्रमों/विषयों को जोड़ने या नए संकायों को खोलने, एक या अधिक पत्रोपाधि कार्यक्रम या अधिक पाठ्यक्रमों या स्नातकोत्तर पाठ्यक्रमों की क्षमता बढ़ाने के लिए, यह दर्शाते हुए कि उन्होंने संस्था स्थापित करने की अनुज्ञा दी है, संबंधित संकाय में अखिल भारतीय स्वास्थ्य विज्ञान शिक्षा परिषद् का प्रमाण पत्र। यदि स्वास्थ्य विज्ञान शिक्षा के लिए संबद्ध संकाय की अखिल भारतीय परिषद् नहीं है तो स्वास्थ्य विज्ञान शिक्षा के संबंधित संकाय के मध्यप्रदेश चिकित्सा परिषद् की अनुमति अपेक्षित होगी।
- (घ) इस आशय का वचन देना होगा कि मूल समिति, समिति को संबद्धता में राशि प्रदान किए जाने के पूर्व, विश्वविद्यालय अभिदाय निधि जमा करेगी, जैसा कि महाविद्यालय संहिता परिनियम में अपेक्षित है:
- परन्तु शासन द्वारा अनुरक्षित या प्रबंधित संस्था की दशा में ऊपर (क), (ख) और (ग) आवश्यक नहीं होगा।
- (ङ.) विश्वविद्यालय की कार्य परिषद् द्वारा विहित प्ररूप में आवेदन ऐसे शुल्क के साथ जैसा कि विश्वविद्यालय द्वारा समय-समय पर विहित किया जाए।
- (4). यथास्थिति, मूल समिति का प्राधिकृत अधिकारी या सचिव या शासी निकाय का अध्यक्ष, आवेदन में निम्नलिखित विषयों के संबंध में जानकारी देगा, अर्थात:-
- (क) आसपास उपलब्ध शैक्षणिक सुविधाओं को ध्यान में रखते हुए, उस विशिष्ट स्थान पर नया संस्था/महाविद्यालय या नए कार्यक्रम/विषय/संकाय/स्नातकोत्तर कक्षाएं बढ़ाए जाने की वास्तविक आवश्यकता है;
- (ख) यह कि नियोजित या नियोजित किए जाने के लिए प्रस्तावित शिक्षकों के नामों को दर्शन वाले कथन के साथ अध्यापक कर्मचारिवृंद की अर्हता तथा पर्याप्तता और उनके नियोजन को प्रशासित करने वाली शर्तें, समय-समय पर संबद्ध संकाय में स्वास्थ्य विज्ञान शिक्षा की अखिल भारतीय परिषद्/विश्वविद्यालय शासन द्वारा बनाए गए उपबंधों के अनुसार होगी;
- (ग) परंतु यह कि विश्वविद्यालय, स्वास्थ्य विज्ञान शिक्षा के लिए संबद्ध संकाय की अखिल भारतीय परिषद् द्वारा अवधारित न्यूनतम मापदण्डों के विरुद्ध स्वास्थ्य विज्ञान शिक्षा के उच्चतर मानदण्डों का प्रस्ताव कर सकेगी।

- (घ) यह कि संस्था/महाविद्यालय के वित्तीय स्रोत ऐसे होंगे जिससे कि इसके सतत् अनुरक्षण और दक्षतापूर्ण कार्य करने के लिए, महाविद्यालय के वित्तीय स्रोतों को दर्शाने वाले विवरण के साथ, जिसमें कि वार्षिक आय और व्यय का एक विवरण सम्मिलित है, सम्यक प्रावधान किए जा सकें;
- (ङ.) यह कि किसी भी छात्र को संस्था/महाविद्यालय में प्रवेश को तब तक प्रवेश नहीं दिया जाएगा जब तक कि प्रार्थक यथास्थिति, संचालक चिकित्सा शिक्षा/विश्वविद्यालय द्वारा अनुमति प्रदान नहीं की जाती;
- (च) (एक) यह कि योग्यताप्राप्त अभियंता/वास्तुविद द्वारा सत्यापित भवन तथा भूमि का सम्पूर्ण विवरण अनिवार्य रूप से प्रस्तुत किए जाने चाहिए।
- (दो) यह कि भवन जिसमें कि संस्था/महाविद्यालय स्थित है, में पर्याप्त संख्या में कक्षा कक्ष हैं, कक्षा कक्ष का कुर्सी क्षेत्र उपयुक्त तथा पर्याप्त है और भवन उचित रूप से स्थित है और संबद्ध संकाय में स्वास्थ्य विज्ञान शिक्षा का अखिल भारतीय परिषद् के दिशा निर्देशों के अनुसार मूल समिति द्वारा धारित हो;
- परंतु यह कि शासन द्वारा संधारित संस्था/ महाविद्यालय की दिशा में ऐसी शर्त अपेक्षित नहीं होगी।
- (5) (क) यह कि इसके पुस्तकालय और वाचनालय के लिए पर्याप्त प्रावधान किए गए हैं।
- (ख) यह कि महाविद्यालय के कर्मचारिवृंद के सम्यक रूप से अर्ह व्यायाम शिक्षक के अधीन छात्रों के सामान्य पर्यवेक्षण तथा स्वास्थ्य कल्याण के लिए उपयुक्त प्रावधान बनाए जाएंगे। संस्था में पर्याप्त अधोसंरचनात्मक सुविधाएं होनी चाहिए।
- (ग) यह कि प्रयोगशाला सुविधाओं के लिए व्यवस्था की गई है और जिसके लिए संस्था/महाविद्यालय के पास आवश्यक धन हो ताकि उसका व्ययन; उपकरणों से सुसज्जित प्रयोगशाला में, स्वास्थ्य विज्ञान या विषय की उस शाखा में शिक्षण देने के लिए किया जा सके और जहां आवश्यक हो संग्रहालय, गैस और जल प्रदाय, उपकरण, कम्प्यूटर प्रयोग के सेटअपस् और रसायन, और प्रयोगशालाओं, व्याख्यान कक्षों और संग्रहालयों का डिजाइन और सामान्य विद्युत् तथा जल प्रदाय की फिटिंग ऐसी अपेक्षाओं के अनुरूप हों जैसा कि समय समय पर विहित किया जाए।
- (घ) यह कि संस्था/महाविद्यालय, यदि शासन द्वारा संधारित नहीं है, के पास अभिदाय निधि के रूप में जमा करने हेतु पर्याप्त धन है और मूल समिति का संस्थापक उसे विश्वविद्यालय के पास, प्रवेश देने की पूर्व शर्त के रूप में ऐसी रीति में, जैसी कि कार्य परिषद् द्वारा विनिश्चित की जाए, गिरवी रखने को तैयार है और ऐसी संस्था या महाविद्यालय, विश्वविद्यालय को स्वविवेक से अवधान राशि (काशन मनी) और महाविद्यालय के कर्मचारिवृंद के वेतन के भुगतान करने के लिए, यदि ऐसा वेतन तीन माह से अधिक की कालावधि के लिए बकाया रहता है, तो, राशि का उपयोग करने के लिए प्राधिकृत करेगी।
- (ङ.) यह कि संस्था/महाविद्यालय के पास महत्वपूर्ण अधोसंरचना है जिसमें संस्था/महाविद्यालय में प्रस्तावित किए जा रहे पाठ्यक्रमों की अपेक्षाओं के अनुरूप आधुनिक प्रयोगशालाएं सम्मिलित हैं।
- (6) (क) यह कि छात्रों द्वारा देय शुल्क समय-समय पर विश्वविद्यालय द्वारा की गई दरों के अनुसार नियत किए जाएंगे:
- परंतु यह कि छात्रों द्वारा दिए जाने वाले समस्त शुल्क, चाहे उन्हें जो नाम दिया जाए, महाविद्यालय की लेखा पुस्तक में जोड़ जाएंगे और महाविद्यालय की प्राप्ति के भाग होंगे।
- (ख) छात्रों से उद्ग्रहीत किए जाने वाले प्रस्तावित शुल्क की दरें और उक्त शुल्क से पूर्णतः या भागतः छूट प्राप्त छात्रों की संस्था को दर्शाने वाली एक विवरणी अनिवार्य रूप से उपलब्ध कराई जाएगी;
- (ग) यह कि संस्था/महाविद्यालय में छात्रों द्वारा शुल्क के भुगतान के संबद्ध नियम, उसी के पास स्थित संस्था के छात्रों को आकर्षित करने की दृष्टि से विरचित नहीं किए जाएंगे।
- (घ) बालिका छात्रों के कल्याण के लिए की गई या की जाने के लिए प्रस्तावित व्यवस्थाएं, यदि महाविद्यालय में सहशिक्षा की व्यवस्था है;
- (ङ.) संस्था, शीर्षक और पुस्तकों की संख्या, पुस्तकालय द्वारा मगाए जाने वाले जनरल्स और पुस्तकालय के उन्नयन के लिए उपलब्ध करवाए गए या करवाए जाने के लिए प्रस्तावित वार्षिक व्यय को दर्शाने वाली विवरणी;
- (च) महाविद्यालय में या उसके पास, महाविद्यालय के प्राचार्य और शैक्षणिक/गैरशैक्षणिक कर्मचारिवृंद के सदस्यों के रहने एवं ठहरने के लिए उपलब्ध कराई गई वास सुविधा को दर्शाने वाली विवरणी;

- (छ) महाविद्यालय में प्रवेश हेतु अनुमत अथवा प्रस्तावित स्थानों के विरुद्ध महाविद्यालय में प्रवेश दिए गए छात्रों को दर्शाने वाली विवरणी;
- (ज) छात्रों के लिए महाविद्यालय द्वारा अनुमोदित, महाविद्यालय में रहने एवं ठहरने के लिए की गई अथवा किए जाने के लिए व्यवस्था को दर्शाने वाली विवरणी।
4. जहां कोई संस्था/महाविद्यालय सीमित कालावधि के लिए विश्वविद्यालय के विशेषाधिकार से प्रवेश दे रहे हैं और अधिक कालावधि के लिए या स्थाई रूप से प्रवेश के विस्तार के लिए आवेदन करने की वांछा करते हैं वहां परिनियमों के अनुसार गठित शासी निकाय का प्राधिकृत अधिकारी या अध्यक्ष प्रयोजन के लिए विहित प्ररूप में आवेदन करेगा और जहां कहीं भी आवश्यक हो निम्न जानकारी देगा:-
- (एक) इस परिनियम के परिनियम-2 और 3 में वर्णित समस्त बिन्दुओं, पूर्ण और वचनों के अनुपालन से संबंधित पूर्व वास्तविक जानकारी;
- (दो) सीमित कालावधि के लिए प्रवेश देते समय कार्य परिषद् द्वारा अधिकथित किसी शर्त के अनुपालन के संबंध में पूर्ण वास्तविक जानकारी; और
- (तीन) ऐसी अन्य जानकारी जैसी कि कार्य परिषद् मंगवाए।
5. (1) कोई भी संस्था/महाविद्यालय स्थाई संबद्धता हेतु पात्र नहीं होगा जब तक कि उसके पास संबंधित पाठ्यक्रम में संबद्ध संस्था/महाविद्यालय के रूप में लगातार दस वर्ष की संबद्धता, इसके प्रयोजन के लिए पर्याप्त संबद्ध स्वयं का भवन, उपयुक्त पुस्तकालय, पाठ्यक्रम की अपेक्षाओं के अनुरूप पर्याप्त रूप से उपकरणों से सज्जित प्रयोगशाला और आधुनिक प्रशासनिक कार्यालय और स्वास्थ्य शिक्षा से संबंधित अखिल भारतीय परिषद् के मानदण्डों के अनुसार पर्याप्त प्राध्यापक वर्ग न हो और ऐसी शर्तों जैसी कि इस प्रयोजन के लिए विनियमों द्वारा विहित की जाएं, पूरा न करते हों।
- (2) नए महाविद्यालयों/संस्थाओं की वार्षिक संबद्धता हेतु आवेदन पूर्ववर्ती वित्तीय वर्ष, जिससे संबद्धता का विस्तार चाहा गया है, के 31 अक्टूबर को या उसके पूर्व और विश्वविद्यालय द्वारा समय समय पर विहित किए गए शुल्क के साथ साथ निरीक्षण शुल्क जैसा कि विश्वविद्यालय द्वारा समय-समय पर विहित किया जाए, के साथ कुल सचिव को कर सकेंगे। निरीक्षण शुल्क वापस नहीं किया जाएगा सिवाय निरीक्षण किए जाने से पूर्व आवेदन वापस ले लिया गया हो। गैर वापसी योग्य संबद्धता शुल्क, गैर वापसी योग्य विलम्ब शुल्क के साथ, 50 प्रतिशत अतिरिक्त प्रभार के भुगतान पर पूर्ववर्ती वर्ष के 30 नवम्बर तक और 100 प्रतिशत अतिरिक्त प्रभार के भुगतान पर संबंधित वर्ष के 31 दिसम्बर तक जैसा कि समय-समय पर विश्वविद्यालय द्वारा विहित किया जाए, जमा किया जा सकेगा।
6. नए महाविद्यालय/संस्था की मान्यता के लिए कोई आवेदन प्राप्त होने पर, कुलसचिव, यह सुनिश्चित करने के पश्चात् कि आवेदन सभी दृष्टि से पूर्ण हैं, मामले को कुलपति के समक्ष रखेगा, जो वह तारीख जिसको या जिसके पूर्व समिति की रिपोर्ट प्रस्तुत की जाएगी को विनिर्दिष्ट करते हुए, तीन या अधिक सक्षम व्यक्तियों से गठित होने वाली निरीक्षण समिति गठित करेगी।
- रिपोर्ट विद्या परिषद् को निर्दिष्ट की जाएगी और विद्या परिषद् कार्य परिषद् को सिफारिश करेगी।
7. (क) निरीक्षण समिति की रिपोर्ट और विद्या परिषद्/स्थाई समिति की सिफारिशों पर विचार करने और ऐसी और जांच जैसी वह ठीक समझे, करने के पश्चात्, कार्य परिषद् या तो:-
- (एक) उसके बारे में जानकारी संचालक, चिकित्सा शिक्षा को भेजेगी और कार्यक्रमों/पाठ्यक्रमों के लिए संस्था/ महाविद्यालय को संबद्धता देगी; या
- (दो) कारण दर्शाते हुए आवेदन निरस्त कर देगी।
- (ख) जहां कार्य परिषद् संबद्धता या उसके किसी भाग को दिए जाने का प्रस्ताव करती है वहां यह विनिर्दिष्ट करेगी कि :-
- (एक) अन्तर्ग्रहण क्षमता के साथ शिक्षण कार्यक्रम/पाठ्यक्रम या पाठ्यक्रमों जिसमें और कक्षा जिस तक, संस्था/महाविद्यालय को विश्वविद्यालय के विशेषाधिकार स्वीकृत किए जाएंगे; और
- (दो) शर्तें, यदि कोई हों, जो कार्य परिषद् अधिरोपित करना उचित समझती है और ऐसी शर्तों को पूरा करने के लिए समय और रीति।
- (ग) ऊपर उप परिनियम (1) या उप परिनियम (2) के खण्ड (ख) के अधीन पारित आदेश कुलसचिव द्वारा आवेदक को संसूचित किया जाएगा।
8. (1) कुलसचिव, आवेदक प्रबंधन को कार्य परिषद् के निर्णय को संसूचित करेगा और यदि संबद्धता दी जाती है तो निम्नलिखित के संबंध में सूचना भेजेगा:-
- (क) संबद्धता के लिए अनुमोदित विषय और अध्ययन के पाठ्यक्रम।
- (ख) प्रवेश दिए जाने वाले छात्रों की संख्या।
- (ग) शर्तें यदि कोई हों, जिसकी पूर्ति के अध्यधीन अनुमति दी गई है।

- (2) संबद्धता प्रदान किए जाने से के लिए कोई आवेदन कार्य परिषद् द्वारा निर्णय लिए जाने पूर्व किसी भी समय वापस लिया जा सकेगा।
- (3) यदि कोई महाविद्यालय/संस्था शैक्षणिक वर्ष के दौरान कक्षाएं जिसके लिए अनुमति दी गई, प्रारंभ करने में असफल रहती है, तो संबंधित पाठ्यक्रम के लिए अनुमति फिर से प्राप्त करनी होगी।
- (क) जहां कहीं प्रतिकूल प्रभाव डालने वाली रिपोर्ट के परिणाम स्वरूप या अन्यथा कार्य परिषद्, किसी संस्था/महाविद्यालय को दिए गए समस्त या किसी विशेषाधिकार को वापस लेने के लिए कार्यवाही प्रारंभ करना आवश्यक समझती है तो कार्य परिषद् अपने आशय की उक्त निकाय को सूचना देते हुए, यथास्थिति, शासी निकाय या शासन को सूचना देगा और उक्त निकाय से यह कारण दर्शाने की जिसमें यथा आशयित कार्यवाही क्यों नहीं की जाना चाहिए अपेक्षा भी करेगा :
- परन्तु यह कि जहां किसी संस्था/ महाविद्यालय को किसी निश्चित कालावधि के लिए विश्वविद्यालय के विशेषाधिकार स्वीकृत किए गए हैं और स्वीकृति आगे और कालावधि के लिए नहीं बढ़ाई गई है तो यह विशेषाधिकार वापस लेने की कोटि में नहीं आएगा।
- (ख) उप परिनियम (1) के अधीन सूचना में निम्नलिखित के बारे में कथन होगा—
- (एक) कारण जिसके लिए आशयित कार्यवाई अनुध्यात है; और
- (दो) कालावधि जिसके भीतर कारण बताओ सूचना का प्रत्युत्तर अनिवार्य रूप से कुल सचिव तक पहुंच जाना चाहिए।
- (ग) कार्यपरिषद्, उसके द्वारा पर्याप्त समझे गए कारणों से, समय-समय पर प्रत्युत्तर देने की कालावधि बढ़ा सकेगी परन्तु ऐसी कुल कालावधि तीन माह से अधिक नहीं होगी।
- (घ) उप परिनियम (2) और (3) के अधीन संस्था/महाविद्यालय को दिए गए समय के भीतर कारण बताओ सूचना का प्रत्युत्तर प्राप्त होने पर, कार्यपरिषद् संबंधित संस्था/महाविद्यालय द्वारा दिए गए प्रत्युत्तर और अभ्यावेदन, यदि किए गए हों, के परिपेक्ष्य में मामले पर विचार करेगी और यदि ऐसा कोई प्रत्युत्तर प्राप्त नहीं होता है, तो वह उक्त कालावधि के समाप्त होने पर विचार कर सकेगी और विद्या परिषद्/ विद्या परिषद् की स्थाई समिति से परामर्श करने के पश्चात् ऐसा आदेश कर सकेगी जैसी कि उसे उचित प्रतीत हो जिसमें संस्था/महाविद्यालय को दिए गए समस्त या किन्हीं विशेषाधिकारों को वापस लेना सम्मिलित होगा।
- (ङ.) जहां कार्य परिषद् द्वारा किसी संस्था/महाविद्यालय को दिए गए विशेषाधिकार पूर्णतः या अंशतः वापस लेने वाला संकल्प पारित किया जाता है, तो उसकी एक प्रति शासन, संबंधित संस्था/महाविद्यालय के शासी निकाय के अध्यक्ष को भेजी जाएगी, जो ऐसे संकल्प के विरुद्ध कुलाधिपति को अपील कर सकेगा और ऐसी अपील में कुलाधिपति का विनिश्चय अंतिम होगा।
10. यदि किसी भी समय कार्य परिषद् यह पाती है कि कोई महाविद्यालय/संस्था विश्वविद्यालय के अधिनियम, परिनियमों, अध्यादेशों या विनियमों की अपेक्षाओं का या उसके द्वारा अथवा उसकी ओर से जारी किए गए निर्देशों का अनुपालन नहीं कर रहे हैं तो कार्य परिषद् को निम्नलिखित कोई एक या अधिक शास्तियां अधिरोपित करने का अधिकार होगा :—
- (क) संबंधित महाविद्यालय के छात्र विश्वविद्यालय परीक्षा के लिए स्वीकर नहीं किए जाएंगे;
- (ख) महाविद्यालय का कर्मचारिवृंद विश्वविद्यालय के कार्य से, जैसे परीक्षक, परीक्षा केन्द्र के अधीक्षक के रूप में नियुक्ति आदि से विवर्जित किए जाएंगे;
- (ग) संबंधित प्राचार्य या शिक्षक विश्वविद्यालय निकाय में नामनिर्देशन से विवर्जित किए जाएंगे और उनका नाम विश्वविद्यालय निकायों के सदस्यों की सूची से हटा दिए जाएंगे;
- (घ) महाविद्यालय को दी गई संबद्धता अंशतः अथवा पूर्णतः वापस ले ली जाएगी।
11. जहां कार्य परिषद् महाविद्यालय/संस्था को संबद्धता पूर्णतः या भागतः वापस लेने का प्रस्ताव करती है, वहां कार्य परिषद्, कुलसचिव को, विशेषाधिकार वापस लेने वाली सूचना, जिसमें आधारों, जिस पर की जाने वाली कार्यवाई प्रस्तावित है का विवरण देते हुए, साथ ही यह इंगित करते हुए कि विनिर्दिष्ट कालावधि के भीतर महाविद्यालय/संस्था की ओर से लिखित में प्रस्तुत किए गए किसी अभ्यावेदन पर कार्य परिषद् द्वारा विचार किया जाएगा, संबंधित महाविद्यालय/संस्था के प्रबंधन और प्राचार्य को, भेजने के लिए प्राधिकृत करेगी। यदि कार्य परिषद् आवश्यक समझती है तो कालावधि को बढ़ाया जा सकेगा।
12. अभ्यावेदन के प्राप्त होने पर या ऊपर खण्ड में निर्दिष्ट कालावधि की समाप्ति पर, कार्य परिषद् वापस लेने की सूचना, कथन या अभ्यावेदन, यदि कोई हों, पर विचार करेगा और ऐसा आदेश करेगा जैसा कि परिस्थितियां अपेक्षा करें।

13. महाविद्यालय/संस्था की संबद्धता वापस लिए जाने की दशा में, कार्य परिषद् को सम्मिलित निधियों/छात्र निधियों के व्ययन के संबंध में विनिश्चय करने की शक्ति होगी।
- (क) कोई महाविद्यालय या संस्था विद्या परिषद् की पूर्व अनुमति के बिना ऐसे अध्ययन पाठ्यक्रम का शिक्षण नहीं रोकेगा जिसके शिक्षण के लिए उसे प्राधिकृत किया गया है।
- (ख) यदि महाविद्यालय/संस्था का प्रबंधन महाविद्यालय में विशिष्ट पाठ्यक्रम या विषय को बंद करने का प्रस्ताव करता है, तो वह विश्वविद्यालय से पूर्व अनुमति प्राप्त करेगा और प्रस्ताव के समर्थन में कारण दर्शाते हुए पूर्ववर्ती वर्ष जिसमें पाठ्यक्रम बंद करना प्रस्तावित है, के 31 अक्टूबर के अपश्चात् औपचारिक आवेदन करेगा।
- (ग) महाविद्यालय/संस्था को बंद करने की दशा में, संबंधित संस्था के प्रबंधन के लिए यह आवश्यक होगा कि, वह अपने कर्मचारियों को उनकी सेवा की समाप्ति के संबंध में एक वर्ष की सूचना दें जो कि तभी प्रभावी होगी जब कि विश्वविद्यालय अधिरोपित शर्तें यदि कोई हों, के अधीन अनुमति प्रदान की जाए।
- (घ) अध्ययन/विषय के एकीकृत पाठ्यक्रम जिसके लिए यह संबद्ध है, निम्नानुसार चरणों में बंद किए जाएंगे :-
- (एक) प्रथम वर्ष में, प्रथम वर्ष के पाठ्यक्रम में प्रवेश बंद किया जाएगा और अगले वर्ष के पाठ्यक्रमों में प्रवेश जारी रहेगा।
- (दो) द्वितीय वर्ष में, द्वितीय वर्ष के पाठ्यक्रम में प्रवेश बंद किया जाएगा और तृतीय वर्ष के पाठ्यक्रम में प्रवेश जारी रहेगा।
- (तीन) प्रवेश का बंद किया जाना ऊपर दी गई रीति में जारी रहेगा।
14. (क) प्रत्येक महाविद्यालय/संस्था, जिन्हें विश्वविद्यालय के विशेषाधिकार स्वीकृत किए गए हैं, ऐसे विशेषाधिकारों के प्रयोग के दौरान हर समय अधिनियम, परिनियमों, अध्यादेशों, विनियमों और अन्य आदेशों, कुलपति, कार्य परिषद् या विद्या परिषद् द्वारा दिए गए निर्देशों या पारित किए गए संकायों, जहां तक ऐसे महाविद्यालय पर वे लागू हों, के उपबंधों का पालन करेगा।
- (ख) परिनियम (क) में अंतर्विष्ट उपबंधों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, महाविद्यालय/संस्था विशिष्टतः निम्नलिखित उपबंधों का पालन करेगी, अर्थात:-
- (एक) अनुमति देते समय अधिरोपित समस्त शर्तें, उचित जांच पड़ताल के साथ सम्यक रूप से पूरी की जानी चाहिए।
- (दो) परिनियम के अधीन गठन के लिए अपेक्षित शासी निकाय प्रवेश के दिनांक से तीन मास के भीतर गठित हो जाएगी और परिनियम द्वारा समनुदेशित समस्त मामलों पर इसका प्रशासन होगा।
- (तीन) तदनुसार प्रबंधन के स्थानांतरण/हस्तांतरण की जानकारी विश्वविद्यालय को तत्काल दी जाएगी।
- (चार) शैक्षणिक संवर्ग की पर्याप्तता और योग्यताएं और नियोजन को प्रबंधित करने की शर्तें और रोजगार की अवधि, परिनियमों, अध्यादेशों एवं विनियमों के प्रावधानों के अनुसार सुनिश्चित होंगी,
- (पांच) शैक्षणिक संवर्ग में किये गये समस्त परिवर्तनों से, उनके स्थान ग्रहण ऐसा करने के एक माह की अवधि के भीतर, विश्वविद्यालय को सूचित कराया जाएगा।
- (छह) आकार, संरचना, बैठक व्यवस्था और प्रत्येक व्याख्यान कक्ष में श्रवण संबंधी सम्पत्तियां और शिक्षार्थियों की व्यवस्था, जैसा कि विद्यापरिषद् द्वारा निर्धारित छात्रों की अधिकतम संख्या की अनुमति को विचार में लेते हुये, विद्या परिषद् द्वारा विहित निश्चित छात्र संख्या से अधिक को, एक समय में व्याख्यान नहीं दिया जाएगा।
- (सात) एक शिक्षक के अधीन प्रयोगशाला कार्य के लिये एक बैच में एक समय में विद्या परिषद् द्वारा विहित अधिकतम छात्र संख्या से अधिक नहीं होगी।
- (आठ) संस्था/महाविद्यालय के अध्यापन कर्मचारिवृंद की प्रत्येक रिक्ति जो एक माह से अधिक समयावधि में भी रिक्त है, तो उसके कारणों का कथन करते हुए सूचित किया जाएगा।
- (नौ) विश्वविद्यालय द्वारा समय-समय पर जारी निर्देशों के अनुरार दस्तावेज और पंजियां तैयार की जाएंगी।
- (दस) वह वार्षिक और सामयिक विवरणी और अन्य जानकारी ऐसे प्ररूप में या रीति किसी प्राधिकारी या विश्वविद्यालय के अधिकारी द्वारा मांग जाने पर प्रस्तुत की जाएगी।
- (ग्यारह) परिनियम एवं व्यावसायिक परिषद् द्वारा निर्धारित, शैक्षणिक और अनुसंधान, छात्रावासों, खेल मैदानों और अन्य सुविधाओं हेतु उचित मैलिक सुविधाएं जैसे भवन, प्रयोगशालाएं, पुस्तकालय, पुस्तकें उपलब्ध होने के वचन पत्र के साथ, पालन किया जाएगा।
- (बारह) विश्वविद्यालय से संबद्ध महाविद्यालय के छात्रों के लिये मूलभूत अस्पताल प्रशिक्षण सुविधायें, चरणबद्ध तरीके से उपलब्ध कराने हेतु वचन दिया जाएगा।
- (तेरह) समय-समय पर, विश्वविद्यालय द्वारा निर्धारित छात्र संख्या से अधिक को अध्ययन पाठ्यक्रम के लिए प्रवेश न देने संबंधी वचन पत्र देगा और पालन करना होगा।

- (चौदह) संबद्ध किए जाने वाले महाविद्यालय में शैक्षणिक एवं गैरशैक्षणिक संवर्ग के समस्त कर्मचारियों और सुविधाएं परीक्षाएं आयोजित करने और विश्वविद्यालय की अन्य गतिविधियों में अभिवृद्धि करने संबंधी वचन पत्र देगा और पालन करेगा।
- (पन्द्रह) कुलाधिपति, कुलपति और विश्वविद्यालय के अन्य अधिकारियों को इस अधिनियम, परिनियमों, अध्यादेशों, नियमों और विनियमों के अधीन प्रदत्त शक्तियों की प्रयोग में लाते हुए किये गये प्रावधानों के तहत दिये गये जारी निर्देशों और आदेशों के पालनार्थ वचन पत्र देगा और पालन करेगा।
- (सोलह) यह कि, विश्वविद्यालय की पूर्व अनुमति के बिना, प्रबंधन या स्थानांतरण नहीं किया जाएगा;
- (सत्रह) यह कि, विश्वविद्यालय की पूर्व अनुमति के बिना, संस्था या महाविद्यालय को बंद नहीं किया जावेगा;
- (अठारह) धारा 25 के अधीन, संबद्धता समाप्त होने, महाविद्यालय या संस्था के बंद होने, की दशा में महाविद्यालय या संस्था की समस्त सम्पत्तियां, भवन तथा उपकरण, जिनका सृजन या निर्माण, शासकीय या अन्य केन्द्रीय राज्य मंडलों से सहायता अनुदान के रूप में प्राप्त राशि से किया गया है, शासन में निहित हो जावेगी।
- (उन्नीस) प्रत्येक महाविद्यालय/संस्था को ऐसे प्रतिवेदनों, विवरणों और अन्य जानकारीयां जैसी की विद्यापरिषद् /कार्यपरिषद् द्वारा महाविद्यालय की कार्य कुशलता जांचने के लिये, समय-समय पर मांगे जाने पर, उपलब्ध कराना होगी।
- (बीस) प्रत्येक महाविद्यालय या संस्था, जिसे विश्वविद्यालय के विशेषाधिकार से प्रवेश मिला है, को समय-समय पर विश्वविद्यालय द्वारा निर्धारित विहित वार्षिक संबद्धता शुल्क का भुगतान प्रत्येक, वर्ष 31 जुलाई, को विश्वविद्यालय को भुगतान करना होगा। महाविद्यालय/संस्था ऐसा करने में विफल होने पर, संबद्धता प्रत्याहरित हो जाएगी।
15. (क) कुलपति, समय-समय पर तीन या तीन से अधिक सक्षम व्यक्तियों को, अधिकृत कर प्रत्येक संबद्ध महाविद्यालय या संस्था का निरीक्षण करा सकता है; परन्तु ऐसा प्रत्येक महाविद्यालय/संस्था का, सामान्यतया प्रत्येक तीन वर्ष में एक बार और अन्य समय में, जहां विद्यापरिषद्/कार्यपरिषद् की राय में ऐसा निरीक्षण आवश्यक है, होगा।
- (ख) एक निरीक्षण समिति सामान्यतया कम से कम तीन सदस्यों से गठित होगी और साधारणतः किसी भी व्यक्ति को, साल में दो से ज्यादा निरीक्षण नहीं दिए जाएंगे। समिति के सदस्यों में, से एक सदस्य, संबंधित विषयों और पाठ्यक्रमों का, विशेषज्ञ होगा, जिसके लिये संबद्धता प्रदान की गई है/प्रदान की जावेगी।
- (ग) निरीक्षण समिति का संयोजक, कुलपति द्वारा नियुक्त किया जाएगा, और वह निरीक्षण की व्यवस्था हेतु जिम्मेदार होगा।
- (घ) संस्थाएं अध्यादेशों, विनियमों के अधीन यथाविहित निरीक्षण शुल्क का भुगतान विश्वविद्यालय को करेगी। विश्वविद्यालय, निरीक्षण समिति के सदस्यों को विश्वविद्यालय के विनियमों/अध्यादेशों के अधीन यथाविहित भत्तों का भुगतान करेगा।
- (ङ) अभिनिश्चयन के उद्देश्य से प्राथमिक रूप से नियमित निरीक्षण निर्देशित होगा—
- (एक) क्या विश्वविद्यालय द्वारा निर्धारित, मान्यता की शर्तों का पालन किया गया है;
- (दो) यह कि दक्षता सुनिश्चित करने हेतु पर्याप्त उपाय किए गए हैं —
- (1) स्टाफ के सदस्यों की अर्हताएं और कर्तव्यों का निर्वहन;
 - (2) छात्रों को निर्देश, आवास और पर्यवेक्षण;
 - (3) कक्षाओं और प्रशासनिक कार्यालयों हेतु आवास;
 - (4) फर्नीचर, उपकरण और स्वच्छता की व्यवस्था;
 - (5) पुस्कालय;
 - (6) विभिन्न प्रयोजनों हेतु पंजिया और;
 - (7) ऐसे ही अन्य विषय
- (तीन) जहां प्रायोगिक कार्यों से संबंधित नियमों का पालन होता है और प्रयोगशालाओं में आवश्यक उपकरणों के साथ और अन्य सुविधाओं की उचित व्यवस्था,
- (च) यह कि जब तक आवेदित प्रवेश विश्वविद्यालय द्वारा प्रदान नहीं कर दिया जाता, महाविद्यालय में किसी भी छात्र को, प्रवेश नहीं दिया जाएगा।

- (छ) निरीक्षण समिति, महाविद्यालय/संस्था का भ्रमण करेगी और विश्वविद्यालय द्वारा निर्धारित प्रपत्र में मुद्रित प्रतिवेदन निरीक्षण करने के 10 दिन के भीतर कुलपति को प्रस्तुत करेगी। निरीक्षण समिति का प्रतिवेदन विद्यापरिषद्, विद्यापरिषद् की स्थायी समिति के समक्ष विचारार्थ और कार्यपरिषद् की अनुशंसाओं हेतु रखेगी।
- (ज) यदि किसी रिपोर्ट में विद्यापरिषद्/कार्यपरिषद् द्वारा कार्रवाई के लिए कहा गया है, तो विद्यापरिषद्/कार्यपरिषद् उन बिन्दुओं को स्पष्ट करेगी जिस कारण महाविद्यालय में कमियों पर विचार किया गया और वह निश्चित करेगी, जिसे पर्याप्त कारणों से बढ़ाया जा सकेगा, जिसमें महाविद्यालय विद्यापरिषद्/कार्यपरिषद् के निर्देशानुसार आवश्यक कार्यवाही कर सके।
16. संबद्ध महाविद्यालय/संस्था का प्राचार्य, प्रत्येक वर्ष 31 अगस्त के पूर्व कुलसचिव को प्रतिवेदन उपदर्शित करते हुए प्रस्तुत करेगा :-
- (क) प्रबंधन में परिवर्तन, यदि कोई हो;
- (1) शैक्षणिक कर्मचारिवृद्ध संवर्ग और नये सदस्यों की योग्यतायें;
- (2) अन्य कर्मचारिवृद्ध
- (ग) छात्रों की संख्या तथा वितरण;
- (घ) विगत वित्तीय वर्ष का आय-व्यय पत्रक;
- (ङ.) परीक्षाओं के परिणाम;
- (च) छात्रवृत्तियाँ;
- (छ) पुस्तकालय की दशा और
- (ज) महाविद्यालय छात्रावासों में छात्रों की संख्या
17. यदि किसी कारण से संस्था/महाविद्यालय, दो वर्ष तक, कार्यक्रम /विषय में, जिसके लिये संबद्धता प्रदान की गई है, निर्देशों का पालन करने में असमर्थ है, तो ऐसी संबद्धता समाप्त मानी जाएगी।
18. (क) विश्वविद्यालय विशेषधिकार से प्रवेशित महाविद्यालय में, प्राचार्य एवं शिक्षकों को राज्य शासन/अखिल भारतीय स्वास्थ्य विज्ञान विद्यापरिषद् द्वारा स्वीकृत वेतनमान और पद से कम पर नियुक्त नहीं किया जाएगा।
- (ख) संस्था/महाविद्यालय में कार्यरत आंशिक शिक्षक को, विश्वविद्यालय द्वारा समय-समय पर निर्धारित मासिक मानदेय का भुगतान किया जाएगा, और वह संबंधित संकाय की अखिल भारतीय स्वास्थ्य विज्ञान विद्यापरिषद् द्वारा निर्धारित मापदण्डों के अनुसार प्रत्येक सप्ताह व्याख्यान देगा।
- (ग) प्रत्येक संबद्ध महाविद्यालय/संस्था निम्नलिखित अभिलेख रखेगा और कुलपति द्वारा नामनिर्देशित अधिकारी को जैसे और जब अपेक्षित हो प्रस्तुत करेगा :-
- (क) दाखिल-खारिज रजिस्टर,
- (ख) छात्रों की प्रतिदिन उपस्थिति का रजिस्टर,
- (ग) शुल्कों का रजिस्टर,
- (घ) समय-सारणी का रजिस्टर,
- (घ) प्रत्येक संस्था/महाविद्यालय, आंतरिक और बाह्य खेलों और शारीरिक अभ्यास के लिये पर्याप्त और उचित स्थान, उपलब्ध करायेगा।
- (ङ.) (एक) कार्यपरिषद् द्वारा निर्धारित रीति में प्रत्येक संस्था/महाविद्यालय, अपने छात्रों के स्वास्थ्य परीक्षण हेतु, व्यवस्था करेगा, और कॉलेज के छात्रावास में रह रहे छात्रों के लिये मेडिकल-एड उपलब्ध कराएगा।
- (दो) उपरोक्त प्रयोजन के लिये, संस्था/महाविद्यालय, विश्वविद्यालय द्वारा निर्धारित दर पर, प्रत्येक छात्र से वार्षिक शुल्क उद्गृहीत करने का हकदार होगा।
- (च) विश्वविद्यालय परीक्षाओं को आयोजित करने के लिये प्रत्येक संस्था/ महाविद्यालय परीक्षा नियंत्रक द्वारा मांगे जाने पर, संस्था/महाविद्यालय अपने भवनों, प्रयोगशालाओं, फर्नीचर, उपकरण और स्टॉफ उपलब्ध करायेगा।
- (छ) विद्यापरिषद् के परामर्श से, कार्यपरिषद् किसी संस्था/महाविद्यालय को या तो स्थायी या विशिष्ट अवधि के लिये, विश्वविद्यालय द्वारा केन्द्रकृत प्रवेश की पद्धति में सहभागिता ले या किसी कार्यक्रम/कक्षा या विषय या कुछ विशेष शाखा को महाविद्यालय में एक सीमा तक शिक्षण की आवश्यकता होने पर, छात्रों की संख्या को प्रतिबंधित करे। कार्यपरिषद् के ऐसे अन्य निर्देश या आदेश, शिक्षण सत्र आरंभ होने के पहले निर्देश या आदेश प्राप्त होने के बाद प्रभावशील किए जाएंगे।

नये आयुर्विज्ञान विश्वविद्यालय की संबद्धता के लिए आवेदन

सामान्य जानकारी

- 1 आवेदक का नाम (बड़े अक्षरों में)
2. पूरा पता पिन कोड सहित, फोन नम्बर, फेक्स तथा ई-मेल (बड़े अक्षरों में)
3. आवेदक की हैसियत (राज्य सरकार या/न्यास सोसाइटी या कोइ अन्य निकाय)
4. सोसाइटी/न्यास के ब्यौरे (यदि आवेदक सोसाइटी या न्यास है तो भरा जाए)
(क) सोसाइटी/न्यास का नाम (रजिस्ट्रीकरण प्रमाण पत्र की प्रति संलग्न करें)
(ख) रजिस्ट्रीकरण क्रमांक/दिनांक
(ग) सोसाइटी/न्यास के सदस्य
(घ) सोसाइटी/न्यास की मुख्य गतिविधियां
(ङ) क्या सोसाइटी/न्यास अन्य महाविद्यालय संचालित कर रहा है? यदि ऐसा है तो ब्यौरे दें (जो लागू ना हो उसे काट दें) हों/नहीं
(च) वित्तीय स्थिति : तुलन पत्र लेखा परीक्षा और खातों की पिछले दो वर्षों की वार्षिक विवरणी की प्रति संलग्न करें
5. महाविद्यालय का नाम पूरे पते के साथ, पिन कोड दूरभाष क्रमांक, फेक्स नम्बर, तथा ई-मेल पता
6. महाविद्यालय/संस्था में संचालित किए जाने पाठ्यक्रम (जहां लागू हो प्रत्येक स्नातकोत्तर पाठ्यक्रम के ब्यौरे दें) स्नातकोत्तर : स्नात
7. प्रस्तावित स्थानों की संख्या जहां लागू हो (प्रत्येक स्नातकोत्तर पाठ्यक्रम के ब्यौरे दें) स्नातक : स्नातकोत्तर
8. क्या राज्य सरकार की अनुज्ञा प्राप्त कर ली गई है (प्रति संलग्न की जाए) हां/नहीं, यदि हां स्थानों की संख्या सहमति की कालावधिरहो..... तक स्नातक तथा स्नातकोत्तर पाठ्यक्रमों की स्थिति अगल से दें) स्नातक : स्नातकोत्तर : (स्नातक तथा स्नातकोत्तर के पाठ्यक्रमों के लिए पृथक से दर्शाए)
9. शैक्षणिक सत्र जिस के लिए प्रवेश प्रस्तावित है। हां /नहीं यदि हां तो अनुज्ञा आदेश का क्रमांक तथा दिनांक
10. क्या महाविद्यालय संस्था प्रारंभ करने के लिए संबंधित भारतीय परिषद् से अनुज्ञा प्राप्त कर ली गई है (कृपया प्रति संलग्न करें)
11. भूमि तथा भवनों के ब्यौरे
(क) ग्राम/नगर (यदि एक से अधिक भू-खण्ड है तो उनके अनुसार ब्यौरे दें)
(ख) निर्मित भूमि क्षेत्र (वर्ग मीटरों में) महाविद्यालय चिकित्सालय कुल निर्मित क्षेत्र
12. संपत्ति
(जो लागू ना हो काट दें)
(क) महाविद्यालय के लिए सड़क पहुंच मार्ग
(ख) लोक परिवहन की उपलब्धता
13. उपयोगिता
(जो लागू ना हो उसे काट दें)
(क) विद्युत प्रदाय
संबद्ध भार
डी जी सेट
(ख) जल प्रदाय
(जो लागू ना हो उसे काट दें)

हां /नहीं

हां/नहीं
..... के व्ही व्ही ए
हां /नहीं
हां/नहीं

(ग) मल वहन सुविधा (जो लागू ना हो उसे काट दें)	हां/नहीं
(घ) संचार सुविधा (जो लागू ना हो उसे काट दें)	
टेलीफोन	हां/नहीं
इंटरनेट	हां/नहीं

महाविद्यालय की जनशक्ति तथा अवसंरचना

14. उपलब्ध उपस्कर

- (क) शिक्षण विभागवार
उपस्करों की सूची (कृपया सूची संलग्न करें)
- (ख) चिकित्सालय उपस्करों की सूची
(कृपया सूची संलग्न करें)

15. जनशक्ति

(विभागवार शैक्षणिक एवं अशैक्षणिक कर्मचारिवृंद के ब्यौरे उपलब्ध कराएं)

स्नातकोत्तर विभाग के लिए कर्मचारिवृंद पृथक से दर्शाएं

पदों की संख्या तथा वेतनमान इंगित किया जाए

- (क) पूर्णकालिक अध्यापन कर्मचारिवृंद
- (ख) तकनीकी कर्मचारिवृंद
- (ग) प्रशासनिक स्टॉफ
- (घ) सहायक कर्मचारिवृंद
- (ङ.) वेतन के भुगतान का तरीका
- (च) भर्ती प्रक्रिया

16. अन्य अवसंरचना

(क) कर्मचारिवृंद आवास गृह	हां/नहीं, यदि हां तो आवास गृहों की संख्या के संबंध में ब्यौरे दें
(ख) विद्यार्थी छात्रावास	हां/नहीं यदि हां तो क्षमता के संबंध में ब्यौरे दें।
(ग) प्रशासनिक कार्यालय	हां/नहीं
(घ) पुस्तकालय	हां/नहीं
(ङ.) सभागार	हां/नहीं
(च) भैषजिक अध्यापन	हां/नहीं/लागू नहीं
(छ) शवगृह	हां/नहीं/लागू नहीं
(ज) औषधीय वनस्पति उद्यान	हां/नहीं/लागू नहीं
(झ) अन्य सुविधाएं ब्यौरे दें	

17. महाविद्यालय में स्थान उपलब्धता

(कृपया क्षेत्र दर्शाएं)

मद

उपलब्ध स्थान (वर्ग मीटर में)

प्रशासनिक खण्ड (ब्लाक)

विभाग वार

अध्यापन खण्ड

व्याख्यान सभागार

संगोष्ठी सभागार/सम्मेलन

केन्द्रीय पुस्तकालय

सामान्य कक्ष

केन्टीन

चिकित्सालय में उपलब्ध/अवसंरचना

टिप्पण: जानकारी जो महाविद्यालय/संस्थान से संबंधित है दी जाए।

18. चिकित्सालय में उपलब्ध आधार भूत अवसंरचना तथा अन्य सुविधाएं

(जहां आवश्यक हो क्षेत्र दर्शाएं तथा जो लागू न हो उसे काट दें)

(क) चिकित्सालय प्रबंधन

क्षेत्रफल (वर्गमीटर)

(ख) बाह्य रोगी विभाग (ओ.पी.डी.)

विभाग-वार ब्यौरे दें

(ग) आन्तरिक रोगी विभाग (आई.पी.डी.) (विभाग-वार क्षेत्र तथा पंलग (विस्तरों) की संख्या

विस्तरों की संख्या का क्षेत्रफल (वर्गमीटर)

(घ) नैदानिक प्रयोगशाला (नैदानिक निदान तथा अन्वेषण के लिए) (जहां आवश्यक हो अतिरिक्त सीट का प्रयोग करें)

उपस्करों की सूची, नाम, विनिर्देशन तथा मात्रा को दर्शित करते हुए।

संपादित की जाने वाली जांचों की सूची, उपयोग की जाने वाली पद्धति को दर्शाते हुए

पिछले तीन महीनों के दौरान संपादित की गई जांचों की सूची।

कर्मचारिवृंद की सूची (चिकित्सीय/सह-चिकित्सीय)

रेडियोग्राफी तथा सोनोग्राफी सुविधा के ब्यौरे

पिछले तीन माह के दौरान संपादित किए गए एक्स-रे तथा सोनोग्राफी के ब्यौरे।

(ड.) अन्य सुविधाएं (जो लागू ना हो उसे काट दें)

हां/नहीं क्षेत्रफल मीटर

आपरेशन थियेटर/खण्ड

ओटी (मेजर)

ओटी (माइनर)

नियोनटल

नवजात देखभाल कक्ष

केन्द्रीय विसंक्रमण/भाप सह पात्र इकाई

सफाई कक्ष (स्कर्व रूम)

स्वास्थ्य लाभ कक्ष

डॉक्टर्स ड्यूटी रूम

इन्टर्नस रूम (प्रशिक्षु) रेसीडेन्ट कक्ष

नर्सिंग स्टॉफ कक्ष

- आपरेशन थियेटर (ओ टी) प्रसव कक्ष ड्यूटी कक्ष, तथा स्टाफ कक्ष में
 अनुलग्न प्रसाधन स्नानागार
 पिछले 12 महीनों के दौरान शल्यक्रिया (छोटे/बड़े) (मेजर/माइनर) किए
 गए रोगियों की संख्या
 भौतिक चिकित्सा (फिजियो थैरेपी) ईकाई
 चिकित्सालय रसोई और केन्टीन
 (च) चिकित्सालय में सुविधा (जहां आवश्यक हो, क्षेत्रफल दर्शाएं)
 औषधालय स्टाफ की गई औषधियों की सूची परिणाम के साथ (यदि
 आवश्यकता हो अतिरिक्त शीट का प्रयोग करें)
 औषधालय में पदस्थ स्टाफ की सूची
 (यदि आवश्यक हो तो अतिरिक्त शीट का प्रयोग करें)
 ओपीडी में केन्टीन (जो लागू न हो उसे काट दें)
 गरीब रोगियों की निःशुल्क भोजन की व्यवस्था है (जो लागू न हो उसे
 काट दें)
 ओपीडी महिला/पुरुष के लिए प्रसाधनों की संख्या
 औषधालय में ऊपर की मंजिलों के लिए ढाल/लिफ्ट
 (छ) रोगियों/परिचारकों के लिए प्रतीक्षा विश्राम कक्ष (जो लागू न हो उसे काट
 दें)
 चिकित्सा अधीक्षक
 उप-चिकित्सा अधीक्षक
 परामर्शदाता
 आकस्मिकता चिकित्सा अधिकारी
 स्थानिक अधिकारी/रोगविषयक रजिस्ट्रार/वरिष्ठ स्थानिक
 रेसीडेन्ट मेडिकल शल्यक्रिया अधिकारी (आर.एम.ओ./आर.एस.ओ.)
 मेट्रन/नर्सिंग अधीक्षक
 सहायक मेट्रन (ओ.पी.डी.)
 आन्तरिक रोगी (आई.पी.डी.) के लिए स्टाफ नर्स
 वाह्य रोगी विभाग (ओ.पी.डी.) के लिए परिचारिकाएं (नर्स)
 भेषजज्ञ (फार्मासिस्ट)
 ड्रेसर
 ओ.पी.डी. के लिए परिचारक
 भंडारी
 कार्यालय (स्टॉफ) कर्मचारिवृंद (पंजीयन अभिलेख रखने (अनुरक्षण) द्वारा
 ऐन्ट्री आदि के लिए
 डाक्र रूम परिचारक
 आपरेशन थियेटर परिचारक
 टेलीफोन आपरेटर सह-स्वागती (रिसेप्शनिस्ट)
 आधुनिक चिकित्सा स्टाफ
 चिकित्सा विशेषज्ञ (सरजिकल स्पेशलिस्ट)
 दन्तचिकित्सक
 रिफ्रैक्टनिस्ट
 श्रव्य तामापी विशेषज्ञ (आडिओ मीटररिस्ट)
 विकिरण चिकित्सक (रेडियोलोजिस्ट)
 एक्सरे तकनीशियन/एक्सरेकर्ता (रेडियोटेक्नीशियन)
 ऐनिसथीसियोलोजिस्ट
 आपरेशन कक्ष (आपरेशन थियेटर)
 हाउस ऑफिसर या क्लिनिकल रजिस्ट्रार
 सीनियर रेसीडेन्ट
 आपरेशन थियेटर परिचारक (अटेन्डेन्ट)
 ड्रेसर
 नर्स
 स्वीपर
 प्रसूतिगृह (लेबर रूम) (यदि लागू हो तो जानकारी दें)

लेडी हाउस ऑफिसर या क्लिनिकल रजिस्ट्रार/सीनीयर रेसिडेन्ट

नैदानिक प्रयोगशाला

पैथोलॉजिस्ट/सूक्ष्म जीव विज्ञान (माइक्रोबाइऑलॉजी)

जीवविज्ञानी (वायोकेमिस्ट)

प्रयोगशाला तकनीशियन (लेबोरेट्री टेक्नीशियन)

प्रयोगशाला सहायक (लेबोरेट्री असिस्टेन्ट)

लिपिक/टाइपिस्ट/कम्प्यूटर आपरेटर/डाटा एन्ट्री आपरेटर

चपरासी/परिचारक

झाड़ूकक्ष (स्वीपर)

(ज) आवश्यक चिकित्सालय स्टॉफ के लिए आवासी स्थान

नर्सिंग छात्रावास / महिला छात्रावास

टापात चिकित्सा स्टॉफ तथा सह-चिकित्सीय स्टॉफ के लिए आवासी

स्थान (वैकल्पिक)

भैषजिक अध्यापन तथा गुणवत्ता नियंत्रण प्रयोगशाला

हां/नहीं

आवेदक के हस्ताक्षर

दिनांक

पूरा नाम तथा
पदाभिधान (पद नाम)

अनुलग्नकों की सूची : संबद्धता के लिए निम्नलिखित दस्तावेज प्रस्तुत किए जाना चाहिए :-

1. संगम ज्ञापन ज्ञापन और संगम अनुच्छेद, न्यास विलेख उपविधि की सत्यापित प्रति
2. रजिस्ट्रीकरण/पिछले दो वर्षों की निगमन प्रमाण पत्र की सत्यापित प्रति
3. वार्षिक लेखा तथा तुलन पत्र लेखापरीक्षा
4. भूमि के स्वामित्व के सबूत के रूप में हक/पट्टा विलेख की सत्यापित प्रति (हक/पट्टाविलेख हिन्दी तथा अंग्रेजी में)
5. राज्य सरकार द्वारा जारी अनापत्ति प्रमाण पत्र की सत्यप्रति।
6. आवेदन प्ररूप और परिनियमों में जैसे अपेक्षित किए गए अन्य अनुलग्नक।

निदर्शन पत्र – एक (प्रोफार्मा – एक)

नियुक्त किए गए अध्यापन स्टॉफ के ब्यौरे देने के लिए निदर्शन पत्र (प्रोफार्मा)

अनुक्रमांक

नाम

पिता का नाम

पदनाम पदाभिधान

योग्यताएं स्नातक तथा स्नातकोत्तर विशेषज्ञता तथा प्रदान
करने वाले निकाय सहित

विभाग

नियुक्ति का दिनांक

अनुभव यदि कोई हो

परिनियम क्रमांक-सत्ताईस**स्नातकों का रजिस्ट्रीकरण**

1. **संक्षिप्त नाम** .- इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (स्नातकों का रजिस्ट्रीकरण) परिनियम, 2013 है।
2. **परिभाषा** .- इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. धारा 36 की उपधारा (थ) के अधीन रजिस्ट्रीकृत स्नातकों के रजिस्टर में रजिस्ट्रीकरण के हकदार व्यक्ति विश्वविद्यालय के कुलसचिव को प्ररूप "क" में आवेदन करेंगे।
4. स्नातक केवल रूपए 5,000/- की राशि का भुगतान करने पर आजीवन सदस्यों के रूप में या रूपए 1000/- का भुगतान करने पर केवल तीन वर्ष की कालावधि के लिए रजिस्ट्रीकृत किए जाएंगे। उनके रजिस्ट्रीकरण की तारीख से इस कालावधि का अवसान होने पर स्नातक रूपए 200/- शुल्क के भुगतान पर इस प्रयोजन के लिए विहित प्ररूप में विश्वविद्यालय को एक आवेदन (पत्र) द्वारा पुनः रजिस्ट्रीकरण के लिए अनुरोध करेंगे। उन रजिस्ट्रीकृत स्नातकों के, जो नियत समय के भीतर स्वयं को पुनः रजिस्ट्रीकृत कराने में असफल रहे हैं, उनका नाम रजिस्ट्रीकृत स्नातकों के रजिस्टर से स्वतः हट जाएगा तथा कुलसचिव ऐसे नामों के हटाए जाने को अधिप्रमाणित करेगा।
5. वर्ष के दौरान किसी भी समय रजिस्ट्रीकरण के लिए आवेदन किया जा सकेगा:
परंतु केवल वे स्नातक, जो या तो रजिस्ट्रीकृत स्नातक हैं या सभा की सदस्यता के लिए रजिस्ट्रीकृत स्नातकों के निर्वाचन की तारीख से 90 दिन पूर्व विश्वविद्यालय में पुनः रजिस्ट्रीकृत हैं, ऐसे निर्वाचन में मत देने हेतु अभ्यर्थियों के रूप में खड़े होने के पात्र होंगे।
6. रजिस्ट्रीकृत स्नातकों के रजिस्टर में नामांकन के प्रयोजन के लिए,
 - (क) तीन वर्ष की अवस्थिति की कालावधि की गणना उस तारीख से की जाएगी, जिसके विश्वविद्यालय के कुलपति या अन्य सक्षम प्राधिकारी द्वारा आवेदक की उपाधि पर हस्ताक्षर किए गए थे।
 - (ख) आयु का साक्ष्य (अधिकतम 50 वर्ष) प्रस्तुत किया जाएगा।
 - (ग) आवेदक द्वारा स्नातक होने के समर्थन में निम्नलिखित साक्ष्य प्रस्तुत किया जाएगा :-
 - 1 उसकी उपाधि या किसी राजपत्रित अधिकारी या किसी आचार्य या किसी महाविद्यालय के प्राचार्य द्वारा सम्यक रूप से अनुप्रमाणित उसकी प्रति,
 - 2 उपाधि प्रदान करने वाले विश्वविद्यालय के कुलसचिव का इस आशय का प्रमाण पत्र कि उसे उपाधि दी गई है,
 - 3 विश्वविद्यालय का केलेण्डर या अन्य प्राधिकृत प्रकाशन,
 - 4 कुलसचिव के समाधान प्रदरूप में कोई अन्य साक्ष्य।
7. निवास के समर्थन में निम्नलिखित साक्ष्य प्रस्तुत किया जाएगा, अर्थात्:-
 - (1) प्रमाण-पत्र प्ररूप :
 - (क) विश्वविद्यालय का कानूनी अधिकारी,
 - (ख) विश्वविद्यालय के किसी महाविद्यालय का प्राचार्य,
 - (ग) विश्वविद्यालय का आचार्य, महाविद्यालय आचार्य या उपाचार्य,
 - (घ) मजिस्ट्रेट,
 - (ङ) मध्यप्रदेश राज्य या केन्द्रीय सरकार का कोई राजपत्रित अधिकारी।
 - (2) निवास का अन्य ऐसा साक्ष्य, जो कुलसचिव द्वारा इस निमित्त समाधानप्रद रूप में स्वीकार किया जाए।
 - (3) अभ्यर्थी के नाम की यदि वह सम्यक् रूप से अर्ह है तथा उसने नामांकन फीस का भुगतान कर दिया है, रजिस्टर में प्रविष्टि की जाएगी।
 - (4) कुलसचिव, रजिस्ट्रीकृत स्नातकों के नामों तथा पतों को दर्शाते हुए एक रजिस्टर अपने कार्यालय में रखेगा, जिसके अंतर्गत निवास स्थान तथा जिला, उपाधि का नाम और उस विश्वविद्यालय के, जिसने उपाधि प्रदान की है, नाम सहित उपाधि प्रदान किए जाने का वर्ष और रजिस्टर में प्रत्येक नाम की प्रविष्टि के सामने कुलसचिव के हस्ताक्षर सम्मिलित होंगे। रजिस्टर निरीक्षण के लिए उपलब्ध रहेगा।
 - (5) प्रत्येक रजिस्ट्रीकृत स्नातक अपने स्थाई पते में सभी परिवर्तनों की जानकारी कुलसचिव को देगा।
 - (6) कुलसचिव ऐसे प्रत्येक व्यक्ति को, जो उस तारीख से, जिसको उक्त अधिनियम प्रवृत्त हुआ था, विश्वविद्यालय के रजिस्ट्रीकृत स्नातक के रूप में रजिस्ट्रीकृत है, उसे और कुलपति द्वारा यथा अनुमोदित समाचार पत्रों में बिना भरे हुए प्ररूप ख के साथ एक सूचना भेजेगा तथा यह घोषणा करने के लिए, कि यदि वह किसी अन्य विश्वविद्यालय में रजिस्ट्रीकृत स्नातक के रूप में रजिस्ट्रीकृत है तथा उक्त अधिनियम

की धारा 36 की उपधारा (थ) के अधीन इस अभिमत को प्रयोग करने के लिए कि क्या वह उस विश्वविद्यालय के रजिस्ट्रीकृत स्नातक के रूप में बना रहना चाहता है, यदि आवश्यक हो, बुलाएगा।

परिशिष्ट (प्रारूप "क")
स्नातकों को रजिस्ट्रीकरण के लिए आवेदन - पत्र

प्रति,

कुलसचिव
मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय,
जबलपुर (मध्यप्रदेश)

महोदय,

मैं मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय, जबलपुर के रजिस्ट्रीकृत स्नातक के रूप में नामांकित होना चाहता हूँ और मैं इसके साथ रूपए (शब्दों में रूपए) का एक बैंक ड्राफ्ट क्रमांक
...दिनांक जो (बैंक) द्वारा जारी किया गया है संलग्न कर रहा हूँ।

मेरी विशिष्टियाँ निम्नलिखित हैं :-

1. नाम
2. (क) ब्यौरे (अर्थात् MBBS/BDS/BAMS आदि) और स्नातक उपाधि प्रदान करने का वर्ष
- ... (ख) स्नातकोत्तर उपाधि प्रदान करने के ब्यौरे तथा वर्ष यदि कोई हो
3. विश्वविद्यालय का नाम, जिसने स्नातक उपाधि/स्नातकोत्तर उपाधि प्रदान की
4. निवास स्थान
5. जिला, जिसमें निवास स्थान स्थित है
6. विश्वविद्यालय के प्रशासकीय कार्यालय से निवास स्थान की दूरी (15 किलोमीटर से अधिक या 15 किलोमीटर से कम)
7. क्या किसी अन्य विश्वविद्यालय में रजिस्ट्रीकृत स्नातक, के रूप में नामांकित है। यदि हाँ तो विश्वविद्यालय का नाम तथा रजिस्ट्रीकरण क्रमांक दीजिए।
8. क्या विश्वविद्यालय/विश्वविद्यालयों में रजिस्ट्रीकृत स्नातक, जैसा कि ऊपर पैरा (7) में दर्शाया गया है, बने न रहने के लिए तैयार है। यदि यह आवेदन उत्तरवर्ती ? रजिस्ट्रीकरण के लिए स्वीकार किया जाता है तो मैं घोषणा करता हूँ कि ऊपर दी गई विशिष्टियाँ सही हैं।

स्नातक होने तथा निवास के समर्थन में आवश्यक साक्ष्य संलग्न हैं।

आपका विश्वसनीय
आवेदक के हस्ताक्षर

बड़े अक्षरों में पूरा नाम

उपनाम रेखांकित

स्थायी पता

टिप्पण :- जब तक पते में परिवर्तन की लिखित में सम्यक्रूप से सूचना विश्वविद्यालय को नहीं दी जाती तब तक रजिस्ट्रीकृत स्नातक को समस्त संसूचनाएँ ऊपर दिए गए पते पर ही भेजी जाएंगी।

विश्वविद्यालय के कार्यालय द्वारा भरा जाए

रूपए प्राप्त किए तथा प्राप्ति रजिस्टर के

क्रमांक पर प्रविष्टि की गई।

तारीख

रोकड़िया

प्ररूप "ख"

मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 की धारा के उपबंधों के अधीन घोषणा (विश्वविद्यालय के कार्यालय में प्राप्ति के लिए अंतिम तारीख)

प्रति,

कुलसचिव
मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय,
जबलपुर (मध्यप्रदेश)

महोदय,

मैं, एतद्वारा घोषणा करता हूँ कि मैं किसी अन्य विश्वविद्यालय में रजिस्ट्रीकृत स्नातक के रूप में रजिस्ट्रीकृत नहीं हूँ।

मैं एतद् द्वारा घोषणा करता हूँ कि मैं किसी अन्य विश्वविद्यालय में रजिस्ट्रीकृत स्नातक के रूप में प्रत्येक के सामने उल्लिखित रजिस्ट्रेशन क्रमांक के अधीन रजिस्ट्रीकृत नहीं हूँ।

विश्वविद्यालय का नाम	रजिस्ट्रीकरण क्रमांक
1.
2.
3.
4.
5.
6.

2. मैं विश्वविद्यालय का स्नातक हूँ उपाधि प्रदान करने के समर्थन में साक्ष्य संलग्न हैं रजिस्ट्रीकरण के लिए मेरे मूल आवेदन के साथ फाइल कर दिए गए हैं

3. मैं (ग्राम/नगर का नाम) जिला मध्यप्रदेश का निवासी हूँ मेरे निवास का स्थान विश्वविद्यालय के प्रशासनिक कार्यालय से 15 किलोमीटर से अधिक/कम दूरी पर है। निवास के समर्थन में आवश्यक साक्ष्य संलग्न है।

4. मैं घोषणा करता हूँ कि ऊपर दी गई जानकारी सही है।

आपका विश्वसनीय

हस्ताक्षर

पूरा नाम

रजिस्ट्रेशन क्रमांक

परिनियम क्रमांक-अड्डाईस**कालेज संहिता****(धारा 5 (सोलह) देखिए)**

1. **संक्षिप्त नाम** :- इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (कालेज संहिता) परिनियम, 2013 है।

2. **परिभाषा** :- इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो:-

(क) "कालेज" से अभिप्रेत है कोई ऐसी शैक्षणिक संस्था जिसे विश्वविद्यालय के विशेषाधिकार दिए गए हों जिसमें सम्मिलित हैं -

(एक) "शासकीय कालेज" कोई ऐसा कालेज जिसे राज्य सरकार या किसी नगरपालिक निगम/परिषद द्वारा संधारित किया जाए;

(दो) "अनुदान प्राप्त कालेज" कोई ऐसा कालेज जो राज्य सरकार या मध्यप्रदेश उच्च शिक्षा अनुदान आयोग से संधारण अनुदान प्राप्त कर रहा है ;

(तीन) "गैर अनुदान प्राप्त कालेज" कोई ऐसा कालेज जो राज्य सरकार या मध्यप्रदेश उच्च शिक्षा अनुदान आयोग से नियमित संधारण अनुदान नहीं प्राप्त कर रहा है;

- (चार) "स्वशासी कालेज" कोई ऐसा कालेज जिसे मध्यप्रदेश विश्वविद्यालय अधिनियम के परिनियम के उपबंधों के अनुसार विश्वविद्यालय द्वारा उस रूप में समनुदेशित किया गया है;
- (ख) "दाता" से अभिप्रेत है कोई वैयक्तिक फर्म, संस्था, पूर्त न्यास या फाउंडेशन सोसाइटी जो कि कालेज को पचास हजार रुपये नकद में से अनिम्न कोई दान या अचल संपत्ति दे रही है;
- परंतु यदि दान किसी फर्म, संस्था, न्यास या संस्था द्वारा दिया गया है तो ऐसे दाता द्वारा नामनिर्दिष्ट प्रतिनिधि इस प्रयोजन के लिए दाता होगा।
- (ग) "फाउंडेशन सोसाइटी" से अभिप्रेत है रजिस्ट्रीकरण या कानूनी निगमन के लिए किसी विधि के अधीन रजिस्ट्रीकृत या निगमित व्यक्तियों का निकाय जो किसी ऐसी शैक्षणिक संस्था जिसे कि विश्वविद्यालय के विशेषाधिकार दिए गए हैं या जो विश्वविद्यालय के विशेषाधिकार चाहती है, संप्रवर्तन या संधारण करता है और जहां कि सोसाइटी का शासी निकाय मध्यप्रदेश सोसाइटी रजिस्ट्रीकरण अधिनियम, 1973 की धारा 33 के अधीन अतिष्ठित है वहां सोसाइटी के मामलों का प्रबंध करने के लिए राज्य सरकार द्वारा नियुक्त व्यक्ति स्थानीय निकायों द्वारा संधारित तथा संचालित शैक्षणिक संस्थाओं की दशा में फाउंडेशन सोसाइटी तथा स्थानीय निकाय के अतिष्ठित होने की दशा में वह व्यक्ति जो निकाय के लिए कार्य करता है स्थानीय निकाय की परिषद् होगा।
- (घ) "शासी निकाय" से अभिप्रेत है इस परिनियम के अनुसार गठित निकाय।
- (ङ) "फाउंडेशन सोसाइटी का अध्यक्ष" से अभिप्रेत है वह व्यक्ति जो कि फाउंडेशन सोसाइटी द्वारा इसके अध्यक्ष (चाहे वह किसी भी नाम से पुकारा जाए) के रूप में सम्यक् रूप से निर्वाचित है तथा उसका कार्यपालक प्रमुख है और जहां कि सोसाइटी मध्यप्रदेश सोसाइटी रजिस्ट्रीकरण अधिनियम, 1973 की धारा 33 के अधीन अतिष्ठित है, सोसाइटी के मामलों का प्रबंध करने के लिए राज्य सरकार द्वारा नियुक्त व्यक्ति लिए राज्य सरकार द्वारा नियुक्त व्यक्ति या व्यक्तियों के निकाय का प्रमुख।
- (च) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 तथा 37 के उपबंधों के अधीन परिनियम।
- (छ) "अध्यापक" से अभिप्रेत है किसी कालेज के अध्यापन कर्मचारिवृन्द के सदस्य और इसमें सम्मिलित है प्राचार्य।
- (ज) इस परिनियम में प्रयुक्त किंतु परिभाषित नहीं किए गए शब्दों तथा अभिव्यक्तियों का वही अर्थ होगा जैसा कि अधिनियम में उनके लिए दिया गया है।

भाग एक फाउंडेशन सोसाइटी

3. (1) कालेज कोड राज्य शासन या नगर निगम या विश्वविद्यालय द्वारा प्रबंधित या व्यवस्थापित महाविद्यालयों को छोड़कर विश्वविद्यालय का विशेषाधिकार प्राप्त समस्त महाविद्यालयों पर लागू होगा।
- (2) फाउंडेशन सोसाइटी विश्वविद्यालय द्वारा वांछित मानदण्ड के अनुसार महाविद्यालय के संधारण तथा अनुरक्षण के लिए आवश्यक धन उपलब्ध कराने के लिए जिम्मेदार होगी।
- (3) महाविद्यालय का कोई भी कर्मचारी, जिसमें कि अवैतनिक तथा अंशकालिक सम्मिलित हैं, जिन्हें कि मानदेय का भुगतान किया जाता है, फाउंडेशन सोसाइटी का कोई पदाधिकारी या सदस्य नहीं होगा।
4. प्रत्येक महाविद्यालय की फाउंडेशन सोसाइटी, विश्वविद्यालय के पास, कुलसचिव तथा कालेज के संयुक्त नाम से एफ डी आर के रूप में समय-समय पर विश्वविद्यालय द्वारा यथा विहित विन्यास निधि जमा करेगी :-
 - (क) यदि महाविद्यालय के पास केवल पूर्व स्नातक स्तर का संकाय है;
 - (ख) पूर्व स्नातक स्तर पर प्रत्येक अतिरिक्त संकाय के लिए;
 - (ग) स्नातकोत्तर स्तर पर प्रथम पाठ्यक्रम के लिए;
 - (घ) स्नातकोत्तर स्तर पर प्रत्येक अतिरिक्त पाठ्यक्रम के लिए;
5. इस परिनियम के प्रभावशील होने की तारीख में महाविद्यालय के अस्तित्व में रहने की दशा में फाउंडेशन सोसाइटी विश्वविद्यालय के पास प्रत्येक शैक्षणिक सत्र में आवश्यक विन्यास निधि के मूल्य के 1/5 के समतुल्य कोई राशि निक्षेपित कराएगी जब तक कि उपरोक्त खण्ड (4) में यथा अपेक्षित विन्यास निधि पूरी निक्षेपित नहीं हो जाती है।
6. विन्यास निधि सृजित करने के लिए निक्षेप छात्रों से फीस के रूप में महाविद्यालय की प्राप्तियों अथवा महाविद्यालय द्वारा प्राप्त अनुदान अथवा महाविद्यालय के कर्मचारिवृन्द से नहीं किया जाएगा।
7. (1) विन्यास निधि से प्राप्त आय महाविद्यालय को उसके स्वयं के उपयोग के लिए उपलब्ध कराई जाएगी।

- (2) जबकि शिक्षकों को शोध वेतन का तीन मास तक भुगतान नहीं किया जाए, विश्वविद्यालय विन्यास निधि के उपयोग को अनुमत कर सकेगा तथा फाउंडेशन सोसाइटी से उसमें से निकाले गए पैसे को निक्षेपित करने की अपेक्षा कर सकेगा।
- (3) महाविद्यालय के बंद होने की स्थिति में या शासन द्वारा महाविद्यालय को अपने अधीन कर लिए जाने की स्थिति में अमानत राशि तथा महाविद्यालय के शिक्षकों को सम्मिलित करते हुए कर्मचारियों को शोध वेतन, विन्यास निधि पर प्रथम भार होगा।
8. फाउंडेशन सोसाइटी विश्वविद्यालय के समस्त निदेशों का पालन करेगी तथा अधिनियम, परिनियम, अध्यादेश तथा विनियमों के अनुसार महाविद्यालय का प्रबंध तथा संचालन करेगी।
9. (1) यदि कार्यपरिषद्, फाउंडेशन सोसाइटी को युक्तियुक्त अवसर प्रदान करने के पश्चात् यह पाती है कि वह संहिता में अवधारित सभी या किन्हीं बाध्यताओं को पूरा करने में असफल रही है तो वह निम्न में से कोई भी कारवाई कर सकेगी:
 - (क) महाविद्यालय के शासी निकाय के अध्यक्ष (चेयरमेन) से भिन्न उसके सदस्यों के होने के अधिकार का प्रत्याहरण;
 - (ख) इस परिनियम द्वारा फाउंडेशन सोसाइटी में निहित शक्तियों का प्रत्याहरण;
 - (ग) महाविद्यालय की संबद्धता का प्रत्याहरण।
- (2) जहां कि खण्ड (1) के अधीन कार्य परिषद् द्वारा कोई कार्रवाई की जाती है, फाउंडेशन सोसाइटी कार्य परिषद् के विनिश्चय के विरुद्ध राज्य सरकार को अपील कर सकेगी। मामले में राज्य सरकार का विनिश्चय अंतिम होगा।
10. (1) फाउंडेशन सोसाइटी की निम्नलिखित शक्तियां होंगी, अर्थात:-
 - (क) जब तक कि शासी निकाय का गठन नहीं हो जाता या जब तक कि उस तारीख से, जिसको कि महाविद्यालय को विश्वविद्यालय के विशेषाधिकार प्रथम बार दिए गए थे, नब्बे दिनों की अवधि का अवसान नहीं हो जाता जो भी पहले हो, इस संहिता के उपबंधों के अनुसार प्रथम प्राचार्य तथा महाविद्यालय के शैक्षणिक कर्मचारीवृद्ध के अन्य सदस्यों को नियुक्त करना;
 - (ख) शासी निकाय की अनुशंसा पर अनुदान प्राप्त महाविद्यालयों की दशा में राज्य सरकार के तथा गैर अनुदान प्राप्त महाविद्यालयों की दशा में कार्य परिषद् के अनुमोदन के अध्यक्षीन रहते हुए किसी नए अध्ययन विभाग के खोले जाने अथवा नवीन शैक्षणिक पद के सृजन को, जो कि फाउंडेशन सोसाइटी पर अतिरिक्त भार अंतर्गस्त करता हो, अनुमति प्रदान करना;
 - (ग) अनावर्ती व्यय की दशा में 50,000/- (पचास हजार रुपये) से अधिक तथा आवर्ती व्यय की दशा में 10,000/- (दस हजार रुपये) से अधिक नवीन व्यय वाली मदों को, जो कि फाउंडेशन सोसाइटी पर अतिरिक्त भार अंतर्गस्त करता हो, अनुमति प्रदान करना;
 - (घ) महाविद्यालय के वार्षिक आय व्यय प्रावकलन तथा अंकेक्षण प्रतिवेदन पर विचार करना तथा प्रस्ताव पारित करना तथा उन्हें विचार के लिए शासी निकाय को अग्रप्रेषित करना;
 - (ङ) महाविद्यालय के कामकाज के संबंध में शासी निकाय से जानकारी मंगाना तथा शासी निकाय को महाविद्यालय की उन्नति तथा विकास के अध्यापय सुझाना;
 - (च) फर्म्स एवं सोसाइटीज के रजिस्ट्रार द्वारा अनुमोदित नामों की किसी सूची में से महाविद्यालय के अंकेक्षकों की नियुक्ति करना;

परन्तु फाउंडेशन सोसाइटी महाविद्यालय के दिन प्रतिदिन के प्रशासन में हस्तक्षेप नहीं करेगी।
- (2) फाउंडेशन सोसाइटी तथा शासी निकाय के मध्य किन्हीं मतभेद की दशा में उनमें से कोई भी मामले को कार्यपरिषद् को निर्दिष्ट कर सकेगा, कार्यपरिषद् का निर्णय अंतिम तथा बाध्यकारी होगा। जहां कि महाविद्यालय का संधारण तथा संचालन किसी व्यक्ति द्वारा किया जाता है तो फाउंडेशन सोसाइटी की बाध्यताएं तथा शक्तियां ऐसे व्यक्ति में निहित होंगी।
- भाग दो - शासी निकाय
11. (1) महाविद्यालय के प्रबंध के लिए एक शासी निकाय होगा। यह निम्नलिखित से मिलकर बनेगा, -
 - (क) फाउंडेशन सोसाइटी द्वारा अपने सदस्यों के बीच में से या महाविद्यालय का प्रबंध कर रहे व्यक्ति द्वारा नियुक्त शासी निकाय - अध्यक्ष
 - (ख) फाउंडेशन सोसाइटी द्वारा अपने सदस्यों के बीच में से या महाविद्यालय का प्रबंध कर रहे व्यक्ति द्वारा नियुक्त दो व्यक्ति - सदस्य
 - (ग) संबंधित संकाय के अखिल भारतीय परिषद् का नामनिर्देशिनी

- क्षेत्रीयअधिकारी (पदेन)

- (घ) संबंधित संकाय की अखिल भारतीय परिषद् के अध्यक्ष द्वारा अनुमोदित सूची में से परिषद् के नामनिर्देशिनी के रूप में संबंधित क्षेत्रीय समिति द्वारा नामनिर्देशित किया जाने वाला क्षेत्र से एक स्वास्थ्य विज्ञान शिक्षाविद् ;
- (ङ) क्षेत्र के लिए राज्य सरकार द्वारा नामनिर्देशित एक स्वास्थ्य विज्ञान शिक्षाविद् ;
- (च) महाविद्यालय की फाउंडेशन सोसाइटी के सदस्यों से भिन्न, विश्वविद्यालय के शिक्षकों में से कुलपति द्वारा नामनिर्देशित विश्वविद्यालय के दो प्रतिनिधि;
- (छ) दाताओं में से चुना जाने वाला महाविद्यालय के दाताओं का एक प्रतिनिधि ;
- (ज) विश्वविद्यालय के क्षेत्राधिकार के भीतर कार्यरत् महाविद्यालय प्राध्यापक संबंधित कालेज को छोड़कर से अनिम्न रैंक के वरिष्ठ शिक्षकों में से राज्य सरकार का एक नामनिर्देशिनी;
- (झ) राज्य सरकार का एक नामनिर्देशिनी— संचालक चिकित्सा शिक्षा (पदेन);
- (ञ) महाविद्यालय के शिक्षकों द्वारा निर्वाचित प्राचार्य से भिन्न दो प्रतिनिधि जिन्होंने कि दो वर्ष की सेवा पूर्ण कर ली हो:
- परंतु दो वर्ष की सेवा संबंधी प्रतिबंध किसी महाविद्यालय के अस्तित्व के तीन वर्ष तक लागू नहीं होगा;
- (ट) महाविद्यालय का प्राचार्य — पदेन सदस्य सचिव ;
- परंतु उपरोक्त खण्ड (क) से (झ) के अधीन शासी निकाय का सदस्य होने के लिए निम्नलिखित पात्र नहीं होंगे :-
- (एक) कोई ऐसा व्यक्ति जो महाविद्यालय के किसी सदस्य से संबंधित है ;
- (दो) कोई ऐसा व्यक्ति जिसके कि महाविद्यालय के काजकाज में आर्थिक हित है;
- (तीन) महाविद्यालय का कोई कर्मचारी।
- (2) अध्यक्ष (चेयरमेन) तथा पदेन सदस्य से भिन्न शासी निकाय का कोई सदस्य दो वर्ष की किसी अवधि के लिए पद धारण करेगा।
- (3) सोसाइटी के शासी निकाय के अधिक्रमण से पूर्व फाउंडेशन सोसाइटी द्वारा नियुक्त अध्यक्ष (चेयरमेन) तथा सदस्य और उनके स्थान राज्य सरकार द्वारा नियुक्त व्यक्ति/व्यक्तियों द्वारा भरे जाएंगे।
- (4) शासी निकाय का कोई पदाधिकारी या सदस्य शासी निकाय के सचिव को संबोधित किसी त्यागपत्र के माध्यम से शासी निकाय से त्यागपत्र दे सकेगा और सचिव द्वारा पत्र प्राप्त करते ही त्यागपत्र प्रभावी हो जाएगा। शासी निकाय का सचिव रिक्तियां होते ही उन्हें भरने के लिए कदम उठाएगा।
- (5) जब किसी पदेन सदस्य से भिन्न किसी सदस्य के पद में उसकी पदावधि की समाप्ति के पूर्व कोई रिक्ति उत्पन्न होती है तो ऐसी रिक्ति यथाशक्यशीघ्र, यथास्थिति, निर्वाचन नामनिर्देशन अथवा नियुक्ति द्वारा भरी जाएगी।
- (6) किसी महाविद्यालय के शासी निकाय की सदस्यता के पदाधिकारियों में हुए प्रत्येक परिवर्तन की रिपोर्ट तत्काल सचिव द्वारा विश्वविद्यालय को दी जाएगी।
- (7) शासी निकाय के एक वर्ष में कम से कम तीन सम्मिलन होंगे। शासी निकाय के पांच सदस्यों से गणपूर्ति होगी। यदि सूचना में दिए गए समय से तीस मिनट के भीतर गणपूर्ति नहीं होती है तो कोई सम्मिलन आयोजित नहीं होगा। किसी स्थगित सम्मिलन के लिए किसी गणपूर्ति की आवश्यकता नहीं होगी।
- (8) शासी निकाय का सम्मिलन सचिव द्वारा अध्यक्ष (चेयरमेन) के परामर्श से आहूत किया जाएगा। अध्यक्ष (चेयरमेन) द्वारा कोई सम्मिलन बुलाने के लिए निदेशित किए जाने पर सचिव द्वारा ऐसा नहीं किए जाने की दशा में अध्यक्ष (चेयरमेन) सम्मिलन बुला सकेगा।
- (9) (क) शासी निकाय के किसी साधारण सम्मिलन के लिए सचिव कम से कम दस दिन पहले सूचना देगा।
- (ख) शासी निकाय का कोई आपातकालीन सम्मिलन तीन स्पष्ट दिनों की सूचना के पश्चात् आयोजित किया जा सकता है।
- (ग) चार से अनिम्न सदस्यों द्वारा संव्यवहृत किए जाने वाले कारबार को विनिर्दिष्ट करते हुए हस्ताक्षरित किसी अध्यक्ष पर, ऐसी अध्यक्ष की प्राप्ति के बीस दिनों के भीतर शासी निकाय का एक विशेष सम्मिलन आयोजित किया जाएगा। किसी विशेष सम्मिलन के लिए कम से कम दस दिनों की सूचना दी जाएगी।
- (घ) सदस्यों को सूचना के साथ प्रत्येक सम्मिलन का एजेंडा भेजा जाएगा। सूचना के जारी किए जाने के पूर्व सचिव द्वारा किसी सदस्य से प्राप्त प्रस्तावों को एजेंडा में सम्मिलित किया जाएगा। किसी विशेष सम्मिलन के एजेंडा में केवल अध्यक्ष में दर्शित कारबार सम्मिलित किया जाएगा।

- (ड) किसी सम्मिलन में एजेंडा में सम्मिलित कारबार से भिन्न किसी कारबार को अध्यक्ष (चेयरमैन) की सहमति के सिवाय और जब तक कि उपस्थित सदस्यों के बहुमत द्वारा इसे समाविष्ट करने की अनुमति न दे दी जाए संव्यवहृत नहीं किया जाएगा।
- (10) अध्यक्ष (चेयरमैन) शासी निकाय के सम्मिलन की अध्यक्षता करेगा। अध्यक्ष (चेयरमैन) की अनुपस्थिति में उपस्थित सदस्य एक सदस्य को अध्यक्षता के लिए चुनेंगे।
- (11) शासी निकाय के प्रत्येक सम्मिलन के कार्यवृत्त सचिव द्वारा तैयार किए जाएंगे और अध्यक्ष (चेयरमैन) के अनुमोदन के उपरांत सम्मिलन के पंद्रह दिवस के भीतर सदस्यों के बीच परिचालित किए जाएंगे।
- (12) शासी निकाय के विश्वविद्यालय के प्रतिनिधियों का यह कर्तव्य होगा कि वे महाविद्यालय के सुचारु कार्यकरण को प्रतिकूलतः प्रभावित करने वाले विनिश्चयों के तथा विश्वविद्यालय के परिनियमों, अध्यादेशों, विनियमों अथवा निर्देशों के अतिक्रमण के संबंध में कुलपति को रिपोर्ट करें।
- (1) शासी निकाय का कोई भी कृत्य अथवा कार्यवाही केवल उसकी सदस्यता में किसी रिक्ति या किसी सदस्य की नियुक्ति, नामनिर्देशन अथवा निर्वाचन में किसी दोष या अनियमितता के कारण से अविधिमान्य नहीं होगी।
- (2) (क) शासी निकाय महाविद्यालय के सामान्य प्रशासन के लिए उत्तरदायी होगा, जिसमें सम्मिलित हैं:-
- (एक) महाविद्यालय के वित्त, लेखा, निवेश, संपत्ति तथा अन्य आस्तियों का प्रबंध तथा विनियमन;
- (दो) फाउंडेशन सोसाइटी के अवलोकनों पर विचार करने के पश्चात् महाविद्यालय के प्राचार्य द्वारा प्रस्तुत बजट का उपांतरण के साथ या उसके बिना अंगीकरण;
- (तीन) महाविद्यालय में नवीन अध्ययन विभाग या नवीन शैक्षणिक तथा गैर शैक्षणिक पदों की स्थापना और समाप्ति :
- परंतु कोई भी शैक्षणिक विभाग तथा शैक्षणिक पद कार्य परिषद् के पूर्व अनुमोदन के बिना समाप्त नहीं किया जाएगा;
- (चार) महाविद्यालय के शिक्षकों की नियुक्ति, पदोन्नति, निलंबन तथा दण्ड तथा उनकी सेवाओं को प्रभावित करने वाली कोई अन्य कार्यवाही;
- (पांच) विश्वविद्यालय द्वारा अपेक्षित शैक्षणिक मानदण्ड के अनुसार महाविद्यालय का प्रबंध तथा अधिनियम, परिनियमों, अध्यादेशों, विनियमों तथा विश्वविद्यालय द्वारा जारी गए निर्देशों का महाविद्यालय द्वारा पालन।
13. महाविद्यालय के प्रबंध के मामले में शासी निकाय, परिनियमों, अध्यादेशों, विनियमों तथा विश्वविद्यालय के निर्देशों तथा ऐसे नियमों से, जैसे कि शासी निकाय द्वारा विरचित किए जाएं, आबद्ध अंतिम प्राधिकारी होगा।
14. शासी निकाय, फाउंडेशन सोसाइटी को निम्नलिखित प्रस्तुत करेगा:-
- (क) प्रत्येक वर्ष की 31 जुलाई तक पिछले वित्तीय वर्ष का महाविद्यालय का वार्षिक लेखा तथा फाउंडेशन सोसाइटी द्वारा नियुक्त किसी अंकेक्षक द्वारा अंकेक्षण रिपोर्ट तथा 30 जून की स्थिति में महाविद्यालय के कार्य तथा प्रगति पर वार्षिक रिपोर्ट।
- (ख) प्रत्येक वर्ष 30 सितंबर को महाविद्यालय का बजट प्राक्कलन।
- (ग) अनावर्ती व्यय की दशा में 50,000/- (पचास हजार रुपये) से अधिक के तथा आवर्ती व्यय की दशा में 10,000/- (दस हजार रुपये) से अधिक के फाउंडेशन सोसाइटी पर भार, नवीन व्यय वाले ऐसी मदों का प्रस्ताव।
15. शासी निकाय अधिनियम, परिनियमों, अध्यादेशों के उपबंधों से संगत निम्नलिखित के संबंध में नियम बना सकेगा:
- (क) अपने सम्मिलनों में अनुसरित की जाने वाली प्रक्रिया;
- (ख) महाविद्यालय का प्रबंध;
- (ग) वह रीति जिसमें कि इसके विनिश्चयों को प्रभावशील किया जाएगा;
- (घ) शासी निकाय इस परिनियम में अन्यथा उपबंधित नहीं की गई तथा अधिनियम, परिनियमों तथा अध्यादेशों से अन्वसंगत समस्त शक्तियों का प्रयोग कर सकेगा।
16. शासी निकाय अथवा चयन समिति अथवा किसी अन्य निकाय या समिति के, जो कि महाविद्यालय के लिए गठित की गई हो, किसी सम्मिलन में सम्मिलित होने वाले विश्वविद्यालय या राज्य सरकार के नामनिर्देशितियों का यात्रा भत्ता तथा दैनिक भत्ता, महाविद्यालय द्वारा विश्वविद्यालय के प्राधिकरणों के किसी सदस्य को अनुज्ञेय दरों पर भुगतान किया जाएगा।
17. (1) शासी निकाय का गठन इस परिनियम के उपबंधों के अनुसार महाविद्यालय को विश्वविद्यालय के विशेषाधिकार दिए जाने की तारीख से नब्बे दिनों की किसी अवधि के भीतर किया जाएगा।

- (2) इस परिनियम के प्रवर्तन की तारीख के ठीक पूर्व की तारीख को विद्यमान शासी निकाय इस परिनियम के अनुसार नए शासी निकाय के गठित होने तक कार्य करता रहेगा परंतु ऐसी अवधि इस परिनियम के प्रवर्तन की तारीख से नब्बे दिन की किसी अवधि के जो विस्तारित नहीं होगी।

भाग-तीन

महाविद्यालय परिषद्

18. (1) प्रत्येक महाविद्यालय के लिए प्राचार्य तथा महाविद्यालय के समस्त शिक्षकों से मिलकर बनने वाली एक महाविद्यालय परिषद् होगी। महाविद्यालय का प्राचार्य तथा उप प्राचार्य, यदि कोई हो, क्रमशः परिषद् का अध्यक्ष तथा उपाध्यक्ष होंगे।
- (2) परिषद् द्वारा उसके सदस्यों में से सचिव का निर्वाचन किया जाएगा। वह एक वर्ष तक के लिए परन्तु दो से अनधिक निरन्तर पदावधियों तक के लिए पद धारण करेगा वह प्राचार्य के निर्देशों के अधीन महाविद्यालय परिषद् के सम्मिलन आयोजित करेगा।
- (3) एक शैक्षणिक सत्र के दौरान परिषद् के कम से कम तीन सम्मिलन होंगे। यह निम्नलिखित कृत्यों का निर्वहन करेगी :-
- (क) महाविद्यालय में अध्ययन की प्रगति पर विचार विमर्श करना;
 - (ख) छात्रों तथा शिक्षकों की आवश्यकताओं को शासी निकाय की जानकारी में लाना;
 - (ग) शैक्षणिक दक्षता तथा महाविद्यालय की प्रभावशीलता में अभिवृद्धि के लिए प्राचार्य या शासी निकाय को परामर्श देना;
 - (घ) महाविद्यालय के आंतरिक प्रबंध तथा उसके छात्रों के अनुशासन से संबंधित ऐसे मामलों पर प्राचार्य को परामर्श देना;
 - (ङ) समय सारिणी तैयार करने, शैक्षणिक कार्यों के आवंटन तथा महाविद्यालय की पाठ्येत्तर गतिविधियों के आयोजन के लिए प्राचार्य को परामर्श देना तथा उसकी सहायता करना;
 - (च) शैक्षणिक संवर्ग के हितों, अधिकारों तथा विशेषाधिकारों को प्रभावित करने वाले मामलों पर विचार करना तथा उन्हें शासी निकाय की जानकारी में लाना।

भाग-चार

प्राचार्य/संकायाध्यक्ष की शक्तियां तथा कर्तव्य

19. (1) प्राचार्य, महाविद्यालय का मुख्य कार्यपालक अधिकारी तथा शैक्षणिक प्रमुख होगा तथा वह महाविद्यालय के शैक्षणिक कार्य में सहभागी होगा।
- (2) शासी निकाय के सामान्य नियंत्रण के अधीन रहते हुए प्राचार्य निम्नलिखित के लिए उत्तरदायी होगा :-
- (क) सामान्यतः विश्वविद्यालय का विशेषाधिकार दिए गए किसी संस्था के रूप में महाविद्यालय का प्रशासन;
 - (ख) महाविद्यालय पुस्तकालय तथा छात्रावासों का प्रबंध;
 - (ग) महाविद्यालय के लेखाओं, प्राप्तियों तथा व्यय का संधारण;
 - (घ) महाविद्यालय के पत्राचार तथा महाविद्यालय के अभिलेखों की अभिरक्षा;
 - (ङ) समामेलित निधि का प्रशासन;
 - (च) शासी निकाय के विनिश्चय का कार्यान्वयन;
 - (छ) अध्यापन तथा अधिगम प्रक्रिया तथा महाविद्यालय द्वारा प्रदान की जारी शिक्षा के मानकों की गुणवत्ता;
20. प्राचार्य को निम्नलिखित शक्तियां होंगी, अर्थात :-
- (क) शासकीय निर्देशों/माननीय न्यायालय के निर्देशों/केंद्रीय परिषद् के निर्देश तथा संबंधित अध्यादेशों के उपबंधों के अनुसार महाविद्यालय में छात्रों को प्रवेश देना;
 - (ख) महाविद्यालय के शैक्षणिक तथा अन्य कर्मचारिवृन्द को शैक्षणिक, प्रशासनिक कार्य तथा पाठ्येत्तर गतिविधियों के संबंध में कर्तव्य का समनुदेशन करना तथा उनके उचित प्रदर्शन पर नजर रखना;
 - (ग) महाविद्यालय के तृतीय एवं चतुर्थ श्रेणी के कर्मचारियों को नियुक्त करना, पदोन्नत करना, अवकाश प्रदान करना, निर्लंबित करना तथा उनके विरुद्ध अनुशासनिक कार्रवाई करना;

- (घ) महाविद्यालय में अनुशासन बनाये रखना:
परंतु महाविद्यालय से छात्र के अस्थायी बहिष्कार की दशा में महाविद्यालय परिषद् प्राचार्य के विनिश्चय को पुनर्विलोकित कर सकेगी;
- (ङ) ऐसी समस्त अन्य शक्तियों का प्रयोग करना जैसी कि परिनियमों, अध्यादेशों तथा विनियमों द्वारा उसे प्रदत्त की जाए।

भाग—चार

महाविद्यालय के शिक्षक

21. (1) महाविद्यालय के किसी भी शैक्षणिक पद पर, जिसमें कि प्राचार्य का पद भी सम्मिलित है, कोई भी नियुक्ति निम्नलिखित के सिवाय नहीं की जाएगी:—
(क) पद को संबंधित केंद्रीय स्वास्थ्य परिषद् द्वारा यथाविहित न्यूनतम अर्हताओं के साथ सम्यक् तथा विस्तृत रूप से विज्ञापित किए जाने के पश्चात्;
(ख) चयन समिति की अनुशंसा पर।
- (2) प्राचार्य के पद पर कोई भी नियुक्ति कार्य परिषद् के पूर्व अनुमोदन के सिवाय नहीं की जाएगी।
- (3) कोई भी व्यक्ति किसी भी शैक्षणिक पद पर जिसमें कि प्राचार्य का पद भी सम्मिलित है नियुक्त नहीं किया जाएगा जब तक कि वह संबंधित केंद्रीय स्वास्थ्य विज्ञान शिक्षा परिषद् द्वारा विहित तथा राज्य सरकार द्वारा अनुमोदित न्यूनतम अर्हता नहीं धारण करता है।
- (4) महाविद्यालय के शैक्षणिक कर्मचारिवृन्द में प्रत्येक परिवर्तन की रिपोर्ट प्राचार्य द्वारा तत्काल विश्वविद्यालय को दी जाएगी।
22. (1) अनुदान प्राप्त महाविद्यालयों के तथा गैर अनुदान प्राप्त महाविद्यालयों के शिक्षक, प्राचार्य तथा गैर-शैक्षणिक कर्मचारियों के लिए चयन समिति ऐसी होगी जैसी कि मध्यप्रदेश अशासकीय शिक्षण संस्था (अध्यापकों तथा कर्मचारियों की भर्ती) नियम, 1979 में उपबंधित हैं, संबंधित केंद्रीय स्वास्थ्य विज्ञान शिक्षा परिषद् का एक नामनिर्देशिनी।
- (2) प्राचार्य के चयन के लिए गठित समिति किसी भी दशा में किसी सम्मेलन में कारबार का संव्यवहार नहीं करेगी जब तक कि अध्यक्ष (चेयरमैन), कम से कम एक विषय विशेषज्ञ तथा दो अन्य सदस्य उपस्थित न हों।
- (3) समिति, पद के कर्तव्यों की प्रकृति को ध्यान में रखते हुए नियमानुसार अभ्यर्थियों का चयन करेगी तथा योग्यता के क्रम में ऐसे अभ्यर्थियों की सूची तैयार करेगी।
- (4) सूची तथा योग्यता के अनुशसित क्रम में कम से कम एक विशेषज्ञ की पूर्ण सहमति होनी चाहिए।
- (5) उप परिनियम (3) के अधीन तैयार की गई सूची में, भरे जाने के लिए प्रस्तावित पदों की संख्या से अधिक, कम से कम दो अभ्यर्थियों के नाम अंतर्विष्ट होंगे।
- (6) तैयार की गई सूची शासी निकाय को प्रस्तुत की जाएगी।
- (7) शासी निकाय उपरोक्त तैयार खण्ड (3) की सूची में से, योग्यता के क्रम में, शिक्षक तथा अन्य कर्मचारियों के पदों पर, नियुक्ति करेगा।
23. (1) चयन समिति की अनुशंसा के सिवाय कोई भी व्यक्ति महाविद्यालय में पूर्णकालिक तथा वैतनिक शैक्षणिक पद पर नियुक्त नहीं किया जाएगा।
- (2) अंशकालिक शैक्षणिक पद पर नियुक्ति यथास्थिति फाउंडेशन सोसाइटी या शासी निकाय द्वारा प्राचार्य की अनुशंसा पर, व्याख्याता के लिए न्यूनतम अर्हता धारण करने वाले व्यक्तियों में से की जा सकेगी।
- (3) इस परिनियम के प्रवर्तन में आने के पूर्व नियुक्ति के समय प्रवृत्त परिनियमों तथा अध्यादेशों के अनुसार की गई शिक्षकों की नियुक्ति विधिमाम्य रूप से की गई समझी जाएगी।
24. (1) (क) प्राचार्य तथा अवकाश रिक्ति में अंशकालिक आधार पर अस्थाई आधार पर नियुक्ति के सिवाय शैक्षणिक कर्मचारिवृन्द के अन्य सदस्य प्रारंभिक रूप से एक वर्ष की परीक्षा पर नियुक्त किए जाएंगे;
(ख) जहां कि कोई नियुक्ति अस्थाई आधार पर चाहे अवकाश रिक्ति या अन्यथा की गई हो, ऐसी अस्थाई नियुक्ति के कारण प्राचार्य द्वारा विश्वविद्यालय को संसूचित किए जाएंगे।
- (2) जब तक कि परीक्षा पर नियुक्त व्यक्ति का कार्य असंतोषजनक नहीं पाया जाता तथा उसे उसके लिए शासी निकाय द्वारा परीक्षा अवधि की समाप्ति के लिए कम से कम एक मास पूर्व सूचित नहीं कर दिया जाता, परीक्षा पर नियुक्त व्यक्ति परीक्षा की अवधि की समाप्ति पर अपनी नियुक्ति में स्थायी किया गया समझा जाएगा।
- (3) (क) अंशकालिक या अस्थाई आधार पर नियुक्त किए गए से भिन्न प्रत्येक शिक्षक को विहित प्ररूप में लिखित संविदा पर नियुक्त किया जाएगा;
(ख) शासी निकाय का यह कर्तव्य होगा कि वह, उस तारीख से जिसको कि नियुक्त व्यक्ति पद पर कार्यभार ग्रहण करता है, एक मास की किसी अवधि के भीतर ऐसी संविदा को निष्पादित कराए;

- (ग) विहित प्ररूप में की गई संविदा तथा महाविद्यालय एवं शिक्षक के मध्य की गई किसी अन्य संविदा में किसी विवाद के उत्पन्न होने की दशा में संविदा में अवधारित निबंधन तथा शर्तें लागू होंगी।
25. प्राध्यापक का पद सामान्य तौर पर महाविद्यालय में के अर्ह शिक्षकों में से वरिष्ठता-सह-ज्येष्ठता के आधार पर भरा जाएगा।
परंतु जबकि महाविद्यालय का कोई शिक्षक जिसमें से कि पदोन्नति की जानी है ठीक नीचे के संवर्ग का कोई भी शिक्षक आवश्यक योग्यता धारण नहीं करता है तो सहायक प्राध्यापक या प्राध्यापक का पद, चयन समिति की अनुशंसा पर सीधी भर्ती द्वारा भरा जा सकेगा।
26. (1) महाविद्यालय में शिक्षकों के विभिन्न पदों, जिसमें कि प्राचार्य भी सम्मिलित है, के लिए वेतनमान ऐसा होगा जैसा कि राज्य सरकार के महाविद्यालयों के लिए विहित है या यथास्थिति संबंधित संकाय के लिए अखिल भारतीय परिषद् द्वारा विहित किया गया है।
(2) किसी अंशकालिक शिक्षक को मानदेय राज्य सरकार द्वारा विहित दरों पर भुगतान किया जाएगा।
(3) प्रत्येक शिक्षक का वेतन मास की 5 तारीख तक उसके पक्ष में देय बैंक द्वारा भुगतान किया जाएगा।
(4) शासी निकाय या फाउंडेशन सोसाइटी कर्मचारियों से जिसमें कि महाविद्यालय के शिक्षक भी सम्मिलित हैं किसी भी दान अथवा ऋण की अपेक्षा या उसे स्वीकार नहीं करेगा।
(5) अंशकालिक शिक्षक से भिन्न प्रत्येक शिक्षक तब के सिवाय जबकि सम्यक् जांच के पश्चात् उसे रोका न गया हो, प्रक्रिया के अनुसार विहित वेतन में वार्षिक वेतनवृद्धि का हकदार होगा।
27. कोई अंशकालिक शिक्षक जो कि किसी पूरे शैक्षणिक सत्र के दौरान महाविद्यालय की सेवा में रहा है, आगामी छुट्टियों के लिए पूर्ण वेतन का हकदार होगा। यदि ऐसा शिक्षक, एक पूरे शैक्षणिक वर्ष से कम परंतु तीन माह से अधिक के लिए किसी शिक्षक की सेवा में रहा है तो वह आगामी छुट्टियों में उसी अनुपात में वेतन का हकदार होगा जितना कि शैक्षणिक सत्र की कुल अवधि में से उसकी सेवा की अवधि का भाग रहा :
परंतु ऐसा शिक्षक ग्रीष्मावकाश के लिए किसी वेतन का हकदार नहीं होगा जहां कि ऐसा शिक्षक उक्त छुट्टी के लिए वेतन पाने के लिए हकदार अवकाशाधीन किसी अन्य शिक्षक के स्थान पर स्थानापन्न है।
28. (1) प्रत्येक शिक्षक जिसमें कि प्राचार्य भी सम्मिलित है सदैव कर्तव्य के प्रति पूर्ण ईमानदारी तथा समर्पण रखेगा तथा ऐसा कुछ भी नहीं करेगा जो कि एक शिक्षक के लिए अशोभनीय हो।
(2) किसी महाविद्यालय के अंशकालिक शिक्षक से भिन्न शैक्षणिक कर्मचारिवृन्द का कोई भी सदस्य प्राचार्य के माध्यम के सिवाय तथा प्राचार्य की दशा में शासी निकाय के अध्यक्ष (चेयरमैन) के माध्यम के सिवाय किसी अन्य प्राधिकरण के अधीन किसी पद के लिए आवेदन नहीं करेगा।
(3) अंशकालिक शिक्षक से भिन्न कोई शिक्षक महाविद्यालय का पूर्णकालिक कर्मचारी होगा तथा शासी निकाय के पूर्व अनुमोदन के बिना अपने आपको प्राईवेट ट्यूशन या किसी अन्य व्यापार या व्यवसाय में नहीं लगाएगा या परीक्षक या पुस्तक के लेखक के रूप में के सिवाय कोई व्यवसाय या कार्य हाथ में नहीं लेगा जो कि उसकी नियुक्ति के कर्तव्यों में व्यवधान डाल सकते हों।
(4) कोई भी शिक्षक शासी निकाय को लिखित पूर्व मंजूरी के बिना विद्या संबंधी पत्रिकाओं के सिवाय किसी समाचार पत्र के संपादन या प्रबंध में भाग नहीं लेगा।
(5) (क) विश्वविद्यालय से संबद्ध महाविद्यालयों/संस्थाओं का कोई शिक्षक कुलपति प्राचार्य तथा महाविद्यालय के शासी निकाय के समस्त विधिसम्मत निर्देशों का पालन करेगा। वह शिक्षक के रूप में सामान्य कृत्यों के अतिरिक्त ऐसे अन्य कर्तव्यों का निर्वहन करेगा जैसे कि महाविद्यालय में की पाठ्यक्रम के साथ की तथा पाठ्येत्तर गतिविधियों के संबंध में या परीक्षाओं, प्रशासन तथा महाविद्यालय में अनुशासन बनाए रखने के लिए प्राचार्य द्वारा उसे सौंपे जाएं।
(ख) शिक्षक से, सम्बन्धित संकाय की अखिल भारतीय परिषद् के नियमों तथा विश्वविद्यालय के परिनियमों, अध्यादेशों तथा विनियमों के अनुसार शिक्षण कक्षाएं लेने की अपेक्षा की जाएगी।
(6) (क) कोई भी शिक्षक महाविद्यालय के हितों के प्रतिकूल रीति में कार्य नहीं करेगा अथवा स्वयं को किसी ऐसे क्रियाकलाप में सहबद्ध नहीं करेगा जो प्रबन्ध समिति की राय में महाविद्यालय के हितों को प्रतिकूलतः प्रभावित कर सकती हो;
(ख) कोई भी शिक्षक किसी भी राजनैतिक दल अथवा अथवा संगठन का सदस्य नहीं होगा अथवा उससे अन्यथा सहबद्ध नहीं होगा।
(7) शिक्षक, उन आचरण नियमों से, जो प्रबन्ध समिति द्वारा अधिनियम, विश्वविद्यालय के परिनियमों, अध्यादेशों तथा विनियमों द्वारा विरचित किए जाएं, शासित होंगे।
(8) महाविद्यालय संहिता के किन्हीं उपबंधों का उल्लंघन अनुशासनहीनता और कदाचार समझा जाएगा और ऐसे शिक्षक के विरुद्ध अनुशासनात्मक कार्रवाई किया जाना न्यायोचित होगा।

29. किसी स्थायी शिक्षक को महाविद्यालय की सेवा में बासठ वर्ष की आयु पूर्ण कर लेने तक अथवा जैसा कि राज्य सरकार द्वारा विनिश्चित किया जाए, सेवा में बने रहने की पात्रता होगी। सेवानिवृत्ति की आयु के पश्चात् कोई सेवा वृद्धि नहीं दी जाएगी।

परन्तु जहां किसी शिक्षक की सेवानिवृत्ति की तारीख शिक्षण सत्र के दौरान पड़ती हो वहां प्रबन्ध समिति, शिक्षक को शिक्षण सत्र की समाप्ति तक सेवा में बने रहने की अनुज्ञा देगी।

30. अस्थायी सेवा का कोई सदस्य एक माह की सूचना अथवा उसके बदले में एक माह का वेतन दिए बिना महाविद्यालय में अपनी सेवाएं बीच में ही समाप्त नहीं कर सकेगा। इसी प्रकार प्रबन्ध समिति भी उसकी सेवाएं समाप्त करते समय एक माह की सूचना अथवा उसके बदले में एक माह का वेतन देगी।

परन्तु यदि अस्थायी शिक्षक की सेवाएं उस निर्धारित अवधि के समाप्त हो जाने पर समाप्त या बन्द की जाती हैं, जिसके लिए वह नियुक्त किया गया था, तो उसे कोई सूचना दिया जाना आवश्यक नहीं होगा।

31. ऐसे किसी शिक्षक की सेवाएं जो परीवीक्षा पर नियुक्त किया गया है, यदि उसका कार्य समाधानप्रद नहीं पाया जाता है तो एक मास की सूचना अथवा ऐसी सूचना के बदले में शिक्षक को एक मास का वेतन देकर परीवीक्षा अवधि के दौरान या परीवीक्षा अवधि पूर्ण हो जाने पर समाप्त की जा सकेंगी। ऐसी सूचना में ग्रीष्म अवकाश अथवा उसका कोई भाग सम्मिलित नहीं होगा और शिक्षक, यदि शिक्षण सत्र के दौरान तीन मास से अधिक सेवा में रहा हो तो आगामी ग्रीष्म अवकाश के वेतन के लिए उसी अनुपात में पात्र होगा जो कि संपूर्ण शिक्षण सत्र की कुल अवधि में की गई सेवा की अवधि के बराबर हो।

32. (1) किसी शिक्षक की सेवाएं निम्नलिखित आधारों पर समाप्त की जा सकेंगी, —

(क) कदाचरण जिसमें कर्तव्य की जानबूझकर उपेक्षा सम्मिलित है।

(ख) संविदा की शर्तों का भंग होने पर।

(ग) शारीरिक अथवा मानसिक अस्वस्थता।

(घ) अक्षमता, परन्तु किसी शिक्षक के विरुद्ध उसका स्थायीकरण हो जाने के दो वर्ष पश्चात्, अक्षमता का आधार नहीं लिया जाएगा।

(ङ) कार्यपरिषद् के पूर्व अनुमोदन से पद समाप्त हो जाने पर:

परन्तु किसी शिक्षक की सेवाओं को शारीरिक अथवा मानसिक अस्वस्थता के आधार पर समाप्त करने की कार्यवाही राज्य सरकार के चिकित्सा बोर्ड की रिपोर्ट के आधार पर के सिवाय नहीं की जाएगी।

- (2) उस स्थिति के सिवाय, जहां कि किसी शिक्षक की सेवाएं कदाचार के आधार पर जिसमें कि कर्तव्य की उपेक्षा अथवा संविदा की शर्तों का भंग होना भी सम्मिलित है, न तो प्रबंध समिति और न शिक्षक दूसरे पक्षकार को तीन मास की सूचना अथवा तीन मास के वेतन के बराबर की राशि का भुगतान करने के सिवाय अनुबंध समाप्त नहीं करेंगे। सूचना की अवधि में ग्रीष्म अवकाश अथवा उसका कोई भाग सम्मिलित नहीं होगा।

भाग—छह

निलंबन, शस्तियां और अनुशासन प्राधिकारी

33. (1) नियुक्ति प्राधिकारी, आदेश द्वारा महाविद्यालय के किसी कर्मचारी को, जिसमें कोई शिक्षक भी सम्मिलित है, निलंबित कर सकेगा, यदि—

(क) उसके विरुद्ध अनुशासन की कोई कार्यवाही अपेक्षित हो अथवा लंबित हो; या

(ख) उसके विरुद्ध किसी दांडिक अपराध के संबंध में जिसमें नैतिक अधमता अंतर्वलित हो, अन्वेषण, जांच अथवा विचारण चल रहा हो।

- (2) महाविद्यालय का कोई कर्मचारी नियुक्ति प्राधिकारी के आदेश से,—

(क) उसके निरोध की तारीख से, यदि वह चाहे किसी आपराधिक आरोप में अथवा अन्यथा 48 घंटों से अधिक की अवधि के लिए अभिरक्षा में निरुद्ध रहा हो;

(ख) उसकी दोषसिद्धि की तारीख से, यदि किसी अपराध के लिए दोषसिद्धि की दशा में उसे 48 घंटों से अधिक अवधि के कारावास से दंडित किया गया हो और ऐसे दोषसिद्धि के परिणामस्वरूप उसे तत्काल पदच्युत नहीं किया गया हो अथवा हटाया नहीं गया हो अथवा अनिवार्य रूप से सेवानिवृत्त नहीं किया गया हो;

निलंबित कर दिया समझा जाएगा।

- (3) निलंबन का किया गया अथवा किया गया समझा गया कोई आदेश तब तक लागू बना रहेगा जब तक कि उसे नियुक्ति प्राधिकारी द्वारा उपांतरित नहीं कर दिया जाता अथवा प्रतिसंहत नहीं कर दिया जाता किन्तु आपराधिक कार्यवाहियों से भिन्न मामलों में यह छह मास से अधिक चालू नहीं रहेगा।

- (4) निलंबन की अवधि के दौरान कर्मचारी को उसके द्वारा अंतिम आहरित परिलब्धियों के पचास प्रतिशत के बराबर निर्वाह भत्ते का भुगतान किया जाएगा।

- (5) यदि कर्मचारी आरोप से दोषमुक्त हो जाता है अथवा तत्पश्चात् आरोप वापस ले लिए जाते हैं तो वह अपने पद पर बहाल कर दिया जाएगा और उसे उसकी निलंबन की अवधि के दौरान के पूर्ण वेतन का उसे पूर्व में दिए गए निर्वाह भत्ते का कटौती किया जाकर भुगतान किया जाएगा।
34. (1) नियुक्ति प्राधिकारी, अच्छे और पर्याप्त कारणों से महाविद्यालय के किसी कर्मचारी पर जिसमें कोई शिक्षक सम्मिलित है, निम्नलिखित शास्तियां अधिरोपित कर सकेगा :-
- (क) भर्त्सना;
- (ख) उपेक्षा या आदेशों के भंग से उसके द्वारा महाविद्यालय को हुए किसी आर्थिक नुकसान का पूर्ण अथवा उसका कोई भाग उसके वेतन से वसूल किया जाना;
- (ग) वेतन वृद्धियों का रोका जाना;
- (घ) वेतनमान, ग्रेड अथवा पद में कमी करना;
- (ङ) अनिवार्य सेवानिवृत्ति;
- (च) सेवा से हटाया जाना;
- (छ) सेवा से पदच्युति जो साधारणतया महाविद्यालय में, भविष्य में नियोजन के लिए निरर्हता होगी।
- उपरोक्त के अतिरिक्त, महाविद्यालय के किसी चतुर्थ श्रेणी कर्मचारी पर छोटी मोटी लापरवाही, समय की पाबंदी का ध्यान न रखने, सुस्ती अथवा लघु प्रकृति की वैसे ही किसी कदाचार के लिए रूपए 50/- से अनधिक के जुर्माने की शास्ति अधिरोपित की जा सकेगी।
- (2) नियुक्ति प्राधिकारी महाविद्यालय के किसी कर्मचारी के विरुद्ध अनुशासन की कार्यवाही संस्थित कर सकेगा।
- (3) उप पैरा (1) में विनिर्दिष्ट जुर्माने से भिन्न कोई भी शास्ति अधिरोपित करने वाला कोई आदेश मध्यप्रदेश सरकार द्वारा सरकारी सेवक पर शास्ति अधिरोपित करने के लिए विहित तथा नियुक्ति प्राधिकारी द्वारा संबंधित महाविद्यालय कर्मचारी के विरुद्ध जांच का आदेश दिए जाने के समय लागू प्रक्रिया के अनुसार के सिवाय नहीं किया जाएगा;
- परंतु महाविद्यालय की सेवा में स्थायी किसी शिक्षक की रैंक अथवा वेतन में कमी करने अथवा उसे सेवा से हटाने या पदच्युत करने या अनिवार्य सेवानिवृत्ति करने का कोई भी प्रस्ताव शासी निकाय द्वारा पारित किया गया नहीं समझा जाएगा जब तक कि वह शासी निकाय के उस सम्मिलन में जिसमें कि यह प्रस्ताव विचार के लिए आता है, उपस्थित सदस्यों के दो तिहाई बहुमत से समर्थित न हो और जहां सम्यक् रूप से कोई विनिश्चय किया जाता है वहां उसे तब तक लागू नहीं किया जाएगा जब तक कि कार्यपरिषद्, द्वारा उसका अनुमोदन न कर दिया जाए।
- (4) महाविद्यालय के शिक्षक जिसमें प्राचार्य भी सम्मिलित हैं के द्वारा निम्नलिखित गलतियों को कदाचार माना जाएगा :-
- (क) उसके शैक्षणिक कर्तव्यों जैसे व्याख्यान देना, निदर्शन करना, निर्धारण, मार्गदर्शन, निरीक्षण करने इत्यादि में असफल रहना।
- (ख) विद्यार्थियों के निर्धारण में घोर पक्षपात, जानबूझकर अधिक अंक देना/कम अंक देना किन्हीं आधारों पर शोषण करना।
- (ग) अन्य विद्यार्थियों, सहयोगियों अथवा प्रशासन के विरुद्ध विद्यार्थियों को भड़काना। इसके अंतर्गत किसी शिक्षक का सेमीनारों में अथवा अन्य ऐसे स्थानों पर जहां विद्यार्थी उपस्थित हों, सिद्धांतों के आधार पर अपने मतभेद को व्यक्त करने का अधिकार सम्मिलित नहीं है।
- (घ) अपने सहयोगियों के साथ संबंधों में जाति, पंथ, धर्म अथवा लिंग से संबंधित प्रश्न उठाना और उपरोक्त बातों का उसके अवसरों में सुधार करने के लिए उपयोग करने का प्रयास करना।
- (ङ) विश्वविद्यालय के समुचित अधिकारियों/निकायों और/या महाविद्यालय के शासी निकाय/ प्राचार्य के विनिश्चय का पालन करने से इंकार करना। इससे उनकी नीतियां अथवा विनिश्चय के प्रति उसके मतभेदों को व्यक्त करने के उसके अधिकार में कोई बाधा उत्पन्न नहीं होगी।
35. (1) जहां महाविद्यालय के किसी कर्मचारी पर प्राचार्य द्वारा कोई शास्ति अधिरोपित की गई है वहां उस तारीख से जिसको कि उस आदेश की प्रति जिसके विरुद्ध अपील की जानी है अपीलार्थी को दी गई हो, तीस दिन के भीतर संबंधित कर्मचारी महाविद्यालय के शासी निकाय को अपील प्रस्तुत कर सकेगा।
- (2) जहां किसी शिक्षक पर उसके रैंक अथवा वेतन में कमी करने या सेवा से हटाए जाने या पदच्युत किए जाने या अनिवार्य सेवानिवृत्ति किए जाने से भिन्न कोई शास्ति अधिरोपित की गई है वहां उस तारीख से जिसको कि उस आदेश की प्रति जिसके विरुद्ध अपील की जानी है, अपीलार्थी को दी गई हो, तीस दिन के भीतर संबंधित कर्मचारी महाविद्यालय की कार्यपरिषद् को अपील प्रस्तुत कर सकेगा।

- (3) किसी शिक्षक पर उसकी रैंक अथवा श्रेणी में कमी करने या उसे सेवा से हटाने या पदच्युत करने या अनिवार्य सेवानिवृत्त करने की शास्ति अधिरोपित करने वाले शासी निकाय के किसी आदेश के विरुद्ध अपील निम्नलिखित से बनने वाले अधिकरण को होगी :-
 (एक) कार्यपरिषद् के सदस्य से भिन्न कुलपति का एक नामनिर्देशिती जो अध्यक्ष के रूप में कार्य करेगा;
 (दो) व्यथित शिक्षक का एक नामनिर्देशिती जिसे कि अपीलार्थी अपनी अपील में नामित करेगा; और
 (तीन) शासी निकाय का एक नामनिर्देशिती :
 परंतु उपरोक्त खंड (3) के अनुसार संबंधित निकाय द्वारा तीन मास के भीतर किसी व्यक्ति को नामांकित न किए जाने की दशा में, कुलपति को, संबंधित निकाय की ओर से एक नामनिर्देशिती को जो किसी भी रीति में विश्वविद्यालय से न जुड़ा हो, नियुक्त करने की शक्ति होगी :
 परंतु यह और कि इस उप परिनियम के अधीन कोई अपील कुलपति को उस तारीख से जिसको कि उस आदेश की प्रति, जिसके विरुद्ध अपील की जानी है, अपीलार्थी को दी गई हो, 45 दिन के अपश्चात् प्रस्तुत नहीं की जाएगी।
- (4) अपील जहां अन्यथा उपबंधित हो उसके सिवाय उस प्राधिकारी को की जाएगी जिसको कि वह की जानी हो। अपील की एक प्रति अपीलार्थी द्वारा उस प्राधिकारी को जिसने वह आदेश पारित किया हो जिसके कि विरुद्ध अपील की जानी है, अग्रेषित की जाएगी। इसमें वे सभी सारवान कथन और तर्क जिनका कि अपीलार्थी आश्रय लेना चाहता हो अंतर्विष्ट होंगे और उसमें कोई अनादर सूचक या अनुचित भाषा अंतर्विष्ट नहीं होगी और वह अपने आप में पूर्ण होगी।
- (5) वह प्राधिकारी, जिसने कि वह आदेश पारित किया है, जिसके कि विरुद्ध अपील प्रस्तुत की गई है, अपील की प्रति प्राप्त होने पर उस पर अपनी टिप्पणी सहित साथ ही सुसंगत अभिलेखों के साथ उसे अपील प्राधिकारी को बिना किसी विलंब के और अपील प्राधिकारी से कोई निदेश प्राप्त होने की प्रतीक्षा किए बिना अग्रेषित करेगा।
- (6) (क) अपील प्राधिकारी शास्ति की पुष्टि कर सकेगा, उसे बढ़ा सकेगा, कम कर सकेगा अथवा उसे अपास्त कर सकेगा अथवा उसे ऐसे निदेशों के साथ जो कि मामले की परिस्थितियों में उचित प्रतीत हों, उस प्राधिकारी को जिसने कि शास्ति अधिरोपित की है वापस लौटा सकेगा;
 (ख) वह प्राधिकारी जिसने वह आदेश पारित किया था जिसके कि विरुद्ध अपील प्रस्तुत की गई है, अपील प्राधिकारी द्वारा पारित आदेशों को प्रभावी करेगा।

भाग-8

भविष्य निधि और अवकाश

36. (1) शासी निकाय अपने कर्मचारियों के फायदे के लिए एक भविष्य निधि संधारित करेगा।
 (2) किसी मूल पद पर स्थायी रूप से नियुक्त उस व्यक्ति से जिसकी सेवाएं सरकार द्वारा या किसी अन्य संस्था द्वारा महाविद्यालय को सौंपी गई हों, भिन्न महाविद्यालय का प्रत्येक पूर्णकालिक शिक्षक और कर्मचारी भविष्य निधि और महाविद्यालय में भारतीय जीवन बीमा निगम मर्यादित की परिवार कल्याण योजना में जमाकर्ता होगा।
 (3) राज्य सरकार द्वारा अनुमोदित हो जाने पर पेंशन, सामान्य भविष्य निधि और उपदान से संबंधित नियमों के प्रावधान अनुदान प्राप्त तथा गैर अनुदान प्राप्त महाविद्यालयों को लागू हो जाएंगे।
 (4) निधि में प्रत्येक जमाकर्ता का अंशदान उसके वेतन का बारह प्रतिशत होगा। ऐसा अंशदान जमाकर्ता के वेतन से प्रतिमास काटा जाएगा और इस प्रकार काटी गई राशि महाविद्यालय द्वारा अंशदान के रूप में दी जाने वाली समान राशि के साथ शिक्षक/कर्मचारी तथा महाविद्यालय के प्राचार्य के संयुक्त नाम से किसी बचत बैंक अथवा डाकघर अथवा किसी अनुसूचित वाणिज्यिक बैंक में एक पृथक भविष्य निधि खाते में जमा की जाएगी:
 परंतु प्राचार्य के खाते की दशा में यह प्राचार्य तथा शासी निकाय के अध्यक्ष के संयुक्त नाम से होगा:
 परंतु यह और कि जमाकर्ता अपने विकल्प पर भविष्य निधि में अपने अंशदान को उसके मासिक वेतन के पंद्रह प्रतिशत से अनधिक किसी राशि तक बढ़ा सकेगा। इस प्रकार बढ़ाए गए अंशदान के बाद भी महाविद्यालय का अंशदान जमाकर्ता के वेतन का बारह प्रतिशत होगा।
 (5) (एक) कोई कर्मचारी जो पूर्ण औसत वेतन पर अवकाश पर हो, ऐसे अवकाश की कालावधि के दौरान भविष्य निधि में अपना अभिदाय और परिवार कल्याण योजना का प्रीमियम देता रहेगा;

- (दो) कोई निलंबित शिक्षक/कर्मचारी निलंबन की अवधि के दौरान भविष्य निधि में अंशदान नहीं देगा न ही इस मामले में महाविद्यालय का कोई अंशदान होगा। ऐसे निलंबित कर्मचारी का परिवार कल्याण योजना का प्रीमियम उसके निलंबन भत्ते में से भारतीय जीवन बीमा निगम मर्यादित में जमा किया जाएगा।
- (6) (एक) शासी निकाय, ऐसी शर्तों के अधीन जैसी कि उसके द्वारा अधिकथित की जाएं, भविष्य निधि में दिए गए उसके व्यक्तिगत अंशदान में से जमाकर्ता के जीवन का बीमा करने वाली जीवन बीमा पॉलिसी या पॉलिसियों के प्रीमियम का अथवा परिवार कल्याण योजना के प्रीमियम का भुगतान करने की अनुज्ञा द सकेगा। जमाकर्ता के बचत बैंक खातों में जमा की जाने वाली राशि ऐसे प्रीमियम की राशि तक कम कर दी जाएगी। ऐसे समस्त मामलों में, जीवन बीमा की वह पॉलिसी जिसके कि लिए प्रीमियम का इस प्रकार भुगतान किया गया है, महाविद्यालय के पक्ष में सौंपी जाएगी।
- (दो) जमाकर्ता के महाविद्यालय की सेवा से सेवानिवृत्त होने पर महाविद्यालय द्वारा पॉलिसी उसे पुनः सौंपी जाएगी। जमाकर्ता की महाविद्यालय में सेवा के दौरान पॉलिसी परिपक्व हो जाने की दशा में पॉलिसी की संपूर्ण राशि जमाकर्ता के भविष्य निधि खाते में जमा कर दी जाएगी जमाकर्ता की महाविद्यालय की सेवा के दौरान मृत्यु हो जाने की दशा में पॉलिसी की संपूर्ण राशि का मृतक के भविष्य निधि के विधिक उत्तराधिकारी को भुगतान कर दिया जाएगा।
- (7) जब किसी जमाकर्ता की महाविद्यालय में सेवाएं उसके सेवानिवृत्त होने, त्यागपत्र दे दिए जाने अथवा अन्यथा समाप्त हो जाती है तो वह अपने भविष्य निधि और परिवार कल्याण योजना में जमा संपूर्ण राशि प्राप्त करने का हकदार होगा।
परंतु कोई जमाकर्ता जिसकी सेवा घोर कदाचार के कारण समाप्त कर दी गई हो, शासी निकाय अथवा वह व्यक्ति जो महाविद्यालय की सेवा में उस तारीख से जिससे कि उसे भविष्य निधि में अभिदान करने की अनुज्ञा दी गई थी, दो वर्ष से अधिक की निरंतर अवधि तक महाविद्यालय की सेवा में रहा हो, महाविद्यालय द्वारा किए गए किसी भी अंशदान के किसी भाग का अथवा उस पर उपगत ब्याज का हकदार नहीं होगा :
परंतु यह और कि महाविद्यालय की सेवा के दौरान जमाकर्ता की मृत्यु हो जाने की दशा उसके खाते में जमा संपूर्ण राशि उसके विधिक उत्तराधिकारी को भुगतान कर दिया जाएगा।
टिप्पणी:- प्रथम परंतुक के अथवा ऐसे कर्मचारी को प्रभावित करने वाली छंटनी की किसी स्कीम के उपबंध किसी ऐसे कर्मचारी के मामले में अविलंब नहीं लेंगे जो मृत्यु अथवा ऐसी निर्योग्यता के कारण जिससे कि शासी निकाय की राय में वह आगे और सेवा करने से निवारित रहा हो, न्यूनतम दो वर्ष की सेवा करने से निवारित रहा हो।
- (8) शासी निकाय भविष्य निधि से अस्थायी अग्रिम आहरित करने के लिए नियम विरचित करेगा जिसमें अन्य बातों के साथ-साथ ऐसे अग्रिम के लिए निम्नलिखित विधि सम्मत उद्देश्य भी सम्मिलित होंगे,-
- (क) अभिदाता अथवा उसके ऊपर वास्तविक रूप से आश्रित व्यक्ति की बीमारी पर हुए व्यय की प्रतिपूर्ति करना;
- (ख) स्वास्थ्य अथवा शिक्षा के कारण अभिदाता अथवा उसके ऊपर वास्तविक रूप से आश्रित किसी व्यक्ति को विदेश जाने के लिए भुगतान;
- (ग) विवाहों, क्रियाकर्मों तथा धार्मिक समारोहों से संबंधित आवेदक को उसकी हैसियत के अनुरूप अनिवार्य खर्चों की पूर्ति करने के लिए;
- (घ) अपने आवास के लिए भूमि या भवन खरीदने अथवा आवासीय भवन का निर्माण करने के लिए।
37. (1) महाविद्यालय के कर्मचारियों को जिसमें शिक्षक भी सम्मिलित हैं, मध्यप्रदेश सरकार के विद्यमान तथा प्रावकाश तथा गैर प्रावकाश विभागों में सरकारी सेवकों को लागू अवकाश नियमों के अनुसार अवकाश की पात्रता होगी। प्राचार्य से भिन्न शिक्षकों के सभी पद प्रावकाश पद होंगे।
- (2) आकस्मिक अवकाश से भिन्न शिक्षकों के अवकाश शासी निकाय द्वारा स्वीकृति किए जाएंगे। प्राचार्य की दशा में आकस्मिक अवकाश शासी निकाय के अध्यक्ष द्वारा तथा अन्य शिक्षकों की दशा में प्राचार्य द्वारा स्वीकृत किए जाएंगे।

भाग-नौ**प्रकीर्ण**

38. (1) महाविद्यालय की स्वयं की निधि होगी तथा महाविद्यालय की समस्त प्राप्तियां जैसे कि फीस, दान, अनुदान, निवेश पर ब्याज तथा विन्यास निधि तथा उधार निधि में रखे जाएंगे।
 (2) निधि से संबंधित समस्त धन ऐसे बैंक में जमा किया जाएगा तथा उसका ऐसी रीति में निवेश किया जाएगा जो कि शासी निकाय विनिश्चित करें।
 (3) उन समस्त व्ययों की, जो कि महाविद्यालय के प्रयोजन के लिए शासीय निकाय द्वारा स्वीकृत किए जाएं, पूर्ति निधि में से की जाएगी।
 (4) महाविद्यालय की निधि का, किसी व्यय की पूर्ति के लिए अथवा फाउंडेशन सोसाइटी को अथवा फाउंडेशन सोसाइटी द्वारा चलाई जा रही किसी संस्था को ऋण देने में उपयोग नहीं किया जाएगा।
39. (1) ऐसे रजिस्ट्रारों और अभिलेखों के अतिरिक्त जिन्हें कि संधारित किया जाना शासी निकाय द्वारा अपेक्षित किया जाए, प्रत्येक महाविद्यालय ऐसे रजिस्ट्रार और अभिलेख संधारित करेगा जैसे कि कार्यपरिषद् द्वारा विहित किए जाएं।
 (2) लेखे, रजिस्ट्रार, सम्मिलन की कार्यवाहियां तथा महाविद्यालय के अन्य अभिलेख सभी कार्य दिवसों पर कार्यालयीन समय के दौरान, शासी निकाय के सदस्यों तथा कार्यपरिषद् द्वारा निरीक्षण करने के लिए नियुक्त व्यक्तियों द्वारा निरीक्षण किए जाने के लिए खुले रहेंगे।
40. महाविद्यालय के प्रबंधन से जुड़ा हुआ कोई भी व्यक्ति और प्राचार्य अथवा शिक्षक या उसका अन्य कर्मचारी किसी छात्र से अथवा उसकी ओर से उसे महाविद्यालय में प्रवेश दिलाने की एक शर्त के रूप में अथवा उसमें कोई अध्ययन पाठ्यक्रम कराने की एक शर्त के रूप में विश्वविद्यालय द्वारा विहित फीस से अधिक या उससे अन्यथा कोई अनुदान, दान, फीस या नकद अथवा वस्तु के रूप में कियी भी प्रकार का कोई भुगतान प्रत्यक्षतः अथवा अप्रत्यक्षतः न तो लेगा न तो प्राप्त करेगा अथवा न लेने देगा अथवा प्राप्त नहीं करने देगा। विद्यार्थियों द्वारा भुगतान की गई ऐसी समस्त रकम महाविद्यालय की प्राप्तियों का भाग होगी।
41. महाविद्यालय के शासी निकाय तथा उसके किसी शिक्षक के बीच सेवा की सविदा से उद्भूत कोई विवाद शिक्षक अथवा शासी निकाय के निवेदन पर कुलपति द्वारा एक अधिकरण को निर्दिष्ट किया जाएगा जिसमें कार्यपरिषद् के सदस्य से भिन्न कुलपति का एक नामनिर्देशित होगा जो अध्यक्ष होगा तथा शिक्षक और शासी निकाय प्रत्येक का एक नामनिर्देशित होगा। अधिकरण का विनिश्चय अंतिम होगा।
42. इस परिनियम के उपबंधों में अंतर्विष्ट किसी बात के होते हुए भी स्वास्थ्य शिक्षा का कोई अशासकीय महाविद्यालय, संस्था की उपविधियों/विनियमों के अनुसार गठित कार्यकारी निकाय द्वारा चाहे, वह किसी भी नाम से ज्ञात हो, प्रशासित किया जाएगा। परंतु :-
 (एक) संस्था की कार्यकारी निकाय में उसके सदस्यों में, संस्था के प्राचार्य से भिन्न शिक्षकों द्वारा अपने में से निर्वाचित किए गए कम से कम दो ऐसे प्रतिनिधि होंगे जिन्होंने संस्था में कम से कम दो वर्ष की सेवा पूर्ण कर ली हो;
 (दो) संस्था में, शिक्षक से अनिम्न तथा उन पदों से जो कि पदोन्नति द्वारा भरे जाते हैं, समस्त अध्यापक पदों पर नियुक्तियां चयन समिति की सिफारिश पर की जाएंगी जिसमें उसके सदस्यों में कुलपति द्वारा नामनिर्दिष्ट सम्बन्धित विषय के दो विशेषज्ञ होंगे;
 (तीन) इस परिनियम के निलम्बन, शास्ति तथा अनुशासन प्राधिकारी के उपबंध संस्था के अध्यापन तथा गैर अध्यापन कर्मचारिवृन्द दोनों को लागू होंगे।

परिशिष्ट**अध्यापकों की सेवा के करार का प्ररूप**

यह करार श्री(जिसे इसमें इसके पश्चात् शिक्षक कहा गया है) प्रथम भाग और
 महाविद्यालय (जिसे इसमें इसके पश्चात् शासी निकाय कहा गया है) जो द्वितीय भाग के अध्यक्ष/सचिव के माध्यम से कार्य करेगा, के बीचदिन को किया गया।

चूंकि शासी निकाय ने श्रीकोमहाविद्यालय के शैक्षणिक कर्मचारिवृन्द के सदस्य के रूप में नीचे इसमें इसके पश्चात् उपवर्णित निर्बंधनो तथा शर्तों पर और महाविद्यालय संहिता के परिनियम में विहित किए गए अनुसार नियुक्त किया है, अब यह करार प्रथम भाग के पक्षकार और शासी निकाय एतद्वारा निम्नानुसार संविदा करता है तथा सहमति देते हैं:-

1. यह करार.....के.....दिन से शुरू होगा और नीचे उपबंधित किए गए अनुसार निर्धारण योग्य होगा।
2. यह कि प्रथम भाग के पक्षकार एक वर्ष की कालावधि के लिए परीक्षा पर नियोजित किए गए हैं और रूपए के वेतनमान में रूपए.....मासिक वेतन का संदाय किया जाएगा। परीक्षा की कालावधि ऐसी अतिरिक्त कालावधि के लिए बढ़ाई जा सकेगी जैसा द्वितीय भाग का पक्षकार उपयुक्त समझे किन्तु परीक्षा की कुल कालावधि किसी भी दशा में दो वर्ष से अधिक नहीं होगी। शिक्षक अपनी नियुक्ति में पुष्ट समझा जाएगा जब तक कि उसकी समाप्ति के पूर्व एक मास के अपश्चात् शासी निकाय उसे निरंतर न रखने की अपने आशय की लिखित में सूचना नहीं देता।
3. यह कि पुष्टिकरण होने पर शासी निकाय, उसके वचनबंध के दौरान शिक्षक को रूपये के वेतनमान में वेतन का भुगतान करेगा और शासी निकाय के अनुमोदन के बिना कोई वेतन वृद्धि रोकी नहीं जाएगी।
4. शिक्षक, उसके वचन बंध की निरंतरता के दौरान, महाविद्यालय संहिता में अधिकथित उपबंधों के अनुसार शासी निकाय द्वारा पोषित भविष्य निधि के लाभों का हकदार होगा।
5. प्रथम भाग के पक्षकार की जन्म तिथि है और सेवानिवृत्ति की आयु बासठ वर्ष है, सेवानिवृत्ति की वास्तविक दिनांक उस शैक्षणिक वर्ष का अंतिम दिन होगा जिसमें वह बासठ वर्ष की आयु प्राप्त करता है।
6. यह कि शिक्षक महाविद्यालय संहिता के उपबंधों के अनुसार अवकाश का हकदार होगा।
7. यह कि शिक्षक अपना सम्पूर्ण समय महाविद्यालय की सेवा में लगाएगा और शासी निकाय की अनुमति के बिना प्रत्यक्ष या परोक्ष रूप से ऐसे निजी काम या किसी व्यापार या कारोबार या अन्य किसी पारिश्रमिक के कार्य में संलग्न नहीं करेगा जिससे उसके कर्तव्यों के सुचारु रूप से निर्वहन में बाधा पहुंचे, किन्तु यह निर्बंधन ऐसे फायदों को लागू नहीं होगा जो उसे परीक्षक के रूप में या किसी पुस्तक के लेखक के रूप में या शैक्षणिक उपलब्धियों के लिए प्राप्त हों।
8. प्रथम भाग का पक्षकार सामान्य कर्तव्यों के अतिरिक्त ऐसे अन्य कर्तव्यों का भी निष्पादन करेगा जो उसे महाविद्यालय के प्राचार्य द्वारा महाविद्यालय की सामाजिक, बौद्धिक या एथलेटिक गतिविधियों के संबंध में या परीक्षा, प्रशासन या महाविद्यालय में अनुशासन बनाए रखने के लिए समनुदेशित की जाएं।
9. यह कि पुष्टिकरण के पश्चात् प्रथम भाग के पक्षकार की सेवाएं निम्नलिखित आधारों पर समाप्त की जा सकेंगी।
 - (क) कदाचरण जिसमें कर्तव्यों के प्रति स्वेच्छया लापरवाही सम्मिलित है;
 - (ख) करार के किन्हीं निर्बंधनों का भंग;
 - (ग) शारीरिक या मानसिक अनुपयुक्तता;
 - (घ) अक्षमता;
 - (ङ) पद समाप्त हो जाना :

परन्तु यह कि-

 - (एक) प्रथम भाग की पक्षकार के विरुद्ध अक्षमता की किसी दलील का, पुष्टिकरण के पश्चात् दो वर्ष या उससे अधिक द्वितीय भाग की पक्षकार की सेवा करने पर, प्रयोग नहीं किया जाएगा।
 - (दो) प्रथम भाग के पक्षकार की सेवाएं उप-खण्ड(ग) के अधीन शासी निकाय द्वारा नियुक्त किए जाने वाले मेडिकल बोर्ड से उस आशय का प्रमाण पत्र अभिप्राप्त किए बिना, समाप्त नहीं की जाएंगी।

(तीन) प्रथम भाग के पक्षकार की सेवाएं, किसी भी कारण, कार्य परिषद के पूर्व अनुमोदन के बिना, समाप्त नहीं की जाएंगी।

10. सिवाय इसके जब कि सेवाएं परिनियम 9 के उपखण्ड (क) या (ख) के अधीन समाप्त की गई हैं, न तो प्रथम भाग का पक्षकार और न ही द्वितीय भाग का पक्षकार, अन्य पक्षकार को तीन मास का लिखित नोटिस या अन्य पक्षकार को तीन मास के वेतन के बराबर रकम, जो प्रथम भाग का पक्षकार उपार्जन कर रहा है, देने के सिवाय, करार को समाप्त नहीं कर सकेगा। ऊपर निर्दिष्ट सूचना में ग्रीष्म अवकाश की कालावधि या उसका कोई भाग सम्मिलित नहीं है।
11. इस करार की कोई भी बात प्रथम भाग के पक्षकार के, इस करार से उद्भूत किसी विवाद को इस परिनियम के अधीन गठित अधिकरण को निर्दिष्ट करने के अधिकार को प्रभावित नहीं करेगी।
12. इस करार के किसी भी कारण से समाप्त होने पर, शिक्षक समस्त पुस्तकें, अप्रेटस, अभिलेख और उसके कब्जे की महाविद्यालय या विश्वविद्यालय की अन्य सामग्रियों को शासी निकाय को सौंप देगा या दे देगा।
शासी निकाय, शिक्षक के वेतन से संबंधित एरियर, यदि कोई हों, और अन्य शोध्यों का, जो उसे महाविद्यालय से देय हैं, करार की समाप्ति के तीन मास की भीतर शोधन कर देगा।

हस्ताक्षर.....दिन20

- (1) (प्रथम भाग का पक्षकार)
 - (2) (द्वितीय भाग का पक्षकार)
- की उपस्थिति में
- (1) (गवाह 1)
 - (2) (गवाह 2)

परिनियम क्रमांक—उनतीस

संघटक महाविद्यालय

1. **संक्षिप्त नाम .—** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (संघटक महाविद्यालय) परिनियम, 2013 है।
2. **परिभाषा .—** इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. **संघटक महाविद्यालय के रूप में घोषित किए जाने के उद्देश्य .—**
संघटक महाविद्यालय के रूप में घोषित किए जाने के निम्नलिखित उद्देश्य होंगे :—
 - (1) स्था की वृद्धि तथा विकास को बढ़ाने के लिए वांछित शैक्षणिक तथा प्रशासनिक नेतृत्व उपलब्ध कराना।
 - (2) स्वास्थ्य शिक्षा में उत्कृष्टता के पथ के अनुसरण के लिए वांछित पर्यावरण तैयार करना तथा सामरिक महत्व के ढांचे का विकास करना।
 - (3) संस्था में उत्तम स्वास्थ्य शिक्षा की वृद्धि के लिए एक दृढ़ तथा चिरस्थायी आधारशिला रखना।
 - (4) संस्था का पाठ्यक्रम में नूतन विषय अनुप्रविष्ट करने तथा परीक्षा में सुधार के लिए आदर्श रूप में विकास करना।
 - (5) संकाय, छात्रों तथा कर्मचरिवृंद में व्यावसायिक तथा नैतिक मूल्यों का विकास करना।
 - (6) राज्य तथा देश में कार्य करने के लिए बहुश्रुत ज्ञानवान तथा प्रतिभावान स्वस्थ मानव शक्ति के विकास को पोषित करना।
 - (7) राज्य तथा देश की स्वास्थ्य संस्थाओं सहक्रियात्मक भागीदारी को सुकर बनाना।
 - (8) स्वस्थ शिक्षा को स्पंदनशील तथा गतिशील पद्धति में परिवर्तित करना।
 - (9) अन्वेषण संस्कृति को आगे बढ़ाना तथा अन्तर्राष्ट्रीय परामर्शी को उन्नत करना।
 - (10) अन्वेषण तथा विकास के लिए शैक्षणिक कार्यक्रमों हेतु अंतर्राष्ट्रीय तथा राष्ट्रीय सहयोग को बढ़ाना।

4. संबद्ध महाविद्यालयों, जिन्हे घटक के रूप में घोषित किया जाना प्रस्तावित है, के अध्यापन तथा अन्य कर्मचारिवृंद का आमेलन/एकीकरण।
कर्मचारिवृंद के लिए विश्वविद्यालय सेवाओं में स्थायी आमेलन लेने के लिए विकल्प होगा और जो आमेलन के लिए इच्छुक न हो, उनकी सेवाएं यथा स्थिति राज्य सरकार के या महाविद्यालय प्रबंधन के नियमों के अनुसार प्रथमतः प्रतिनियुक्ति पर ली जाएगी। महाविद्यालय के बजट में उपलब्ध समस्त पद समुचित प्राधिकारी या संस्था द्वारा विश्वविद्यालय को अंतरित किए जाएंगे।
संघटक महाविद्यालय के संकाय तथा कर्मचारिवृंद विश्वविद्यालय के विश्वविद्यालय अध्यापन विभागों के समतुल्य माने जाएंगे।
5. **संघटक संस्था का प्रबंधन .-**
समस्त प्रयोजनों के लिए घटक संस्थाओं का निर्वाह तथा विकास विश्वविद्यालय का उत्तरदायित्व होगा। उसका उत्तरदायित्व पूरा करने के लिए विश्वविद्यालय :-
(क) घटक संस्था के संकाय की भर्ती करेगा तथा विकास करेगा।
(ख) संस्था के विकास में विनिधान करेगा।
(ग) विभिन्न स्रोतों के माध्यम से संस्था में राजस्व में उत्तजनन को प्रोत्साहित करेगा।
(घ) संस्था का बजट बनाएगा तथा उसके वित्त की व्यवस्था करेगा।
(ङ) विश्वविद्यालय कार्यपरिषद् के माध्यम से संस्था का नियंत्रण उपलब्ध कराना।
6. **छात्रों/पाठ्यक्रमों की स्थिति .-**
समस्त छात्र विश्वविद्यालय संघटक महाविद्यालय के छात्र माने जाएंगे।
विश्वविद्यालय के विशेषाधिकार दी गई संबंधित संस्था के समस्त पाठ्यक्रम जारी रहेंगे और संघटक महाविद्यालय के पाठ्यक्रम माने जाएंगे।
7. **महाविद्यालय की जंगम तथा स्थावर संपत्ति का अन्तरण .-**
जैसा ही महाविद्यालय को विश्वविद्यालय के विशेषाधिकार संघटक महाविद्यालय के रूप में दिए जाते हैं; उनकी समस्त आस्तियों और दायित्व, संपूर्ण भूमि मार्ग तथा भवन के साथ जंगम तथा स्थावर संपत्ति विश्वविद्यालय को अंतरित हो जाएगी तथा उन्हें राज्य सरकार के अनुमोदन के अधीन रहते हुए, राजस्व विभाग या अन्य कारपोरेट एजेंसियों द्वारा संधारित किए जाने वाले समस्त अभिलेखों में विश्वविद्यालय की सम्पत्ति माना जाएगा। विश्वविद्यालय इस संपत्ति के मददे कोई मूल्य संदत्त करने के लिए बाध्य नहीं होगा।

परिनियम -तीस

स्वशासी महाविद्यालय

1. **संक्षिप्त नाम .-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (स्वशासी महाविद्यालय) परिनियम, 2013 है।
2. **परिभाषा .-** इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
(क) "परिनियम" से अभिप्रेत है, मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 तथा 37 के उपबंधों के अधीन परिनियम ;
(ख) इस परिनियम में उन शब्दों और अभिव्यक्तियों का जो इसमें प्रयुक्त हुए हैं किन्तु परिभाषित नहीं हैं के वही अर्थ होंगे जो अधिनियम में उनके लिए समनुदेशित किए गए हैं।
3. **स्वायत्तता के उद्देश्य .-**
(क) स्वशासी महाविद्यालय, नवीन शैक्षणिक नीति की धारणा के साथ आमूल परिवर्तन लाने के लिए स्वतंत्र होंगे:-
1 उसका नवीन पाठ्यक्रम तथा पाठ्यचर्या अवधारित करने;
2 प्रवेश के नियम, राज्य सरकार की आरक्षण नीति के लिए पाठ्यक्रम का विषय विहित करने, तथा
3 मूल्यांकन की रीति विकसित करने तथा परीक्षा का संचालन करने की स्वतंत्रता होगी।
(ख) स्वायत्तता भविष्य में उच्चतम स्तर तथा सृजनात्मक करने का एक माध्यम होगा।
किसी स्वशासी महाविद्यालय का मूल विश्वविद्यालय पात्र घोषित किए गए अभ्यर्थियों को विहित पाठ्यचर्या सफलतापूर्वक पूर्ण कर लेने तथा स्वशासी महाविद्यालय द्वारा मूल्यांकन करने पर उपाधि प्रदान करना चालू रखेगा। इस प्रकार कोई स्वशासी महाविद्यालय उसके द्वारा दी जा रही शिक्षा के मूलतत्त्व तथा गुणवत्ता

- के लिए पूर्ण रूप से उत्तरदायी होगा। स्वशासी महाविद्यालय उपाधि प्रदान करने के लिए छात्रों के मूल्यांकन के लिए, जो मूल विश्वविद्यालय द्वारा स्वीकार्य हो, जिम्मेदार होगा।
- (ग) स्वशासी महाविद्यालय का, तकनीकी जागरूकता के साथ, राष्ट्रीय अखंडता की प्रोन्नति, उसके शैक्षणिक कार्यक्रम तथा अन्य क्रियाकलापों के साथ एक महत्वपूर्ण भाग होगा।
4. विश्वविद्यालय को ऐसे व्यक्तियों को उपाधियाँ, अभिनाम, डिप्लोमा तथा अन्य विद्या संबंधी सम्मान प्रदान करने की शक्ति होगी जिन्होंने किसी स्वशासी महाविद्यालय में अनुमोदित पाठ्यक्रम का अध्ययन किया हो और राज्य सरकार की सहमति से विहित की गई रीति में तथा शर्तों के अधीन किसी महाविद्यालय
5. (क) कार्यपरिषद् के पास, विद्या परिषद् के परामर्श से, वह रीति जिसमें और वे शर्तें जिनके अधीन रहते हुए, किसी महाविद्यालय को स्वशासी महाविद्यालय के रूप में पदाभिहित करने और ऐसे पदाभिधान को रद्द करने की शक्ति होगी।
- (ख) कार्यपरिषद् के पास, राज्य सरकार की सहमति से किसी महाविद्यालय को स्वशासी महाविद्यालय के रूप में पदाभिहित करने और ऐसे पदाभिधान को रद्द करने की शक्ति होगी।
- (ग) कार्यपरिषद्, यथास्थिति, विश्वविद्यालय से किसी संबद्ध या अनुमोदित महाविद्यालय को संबद्ध किए जाने या अनुमोदन की शर्तों को प्रभावित करने वाले किसी विनियम के प्ररूप या संशोधन के प्ररूप या किसी महाविद्यालय को एक स्वशासी महाविद्यालय के रूप में पदाभिहित करने की शर्तों को प्रभावित करने वाले किसी विनियम या विनियम के संशोधन के प्ररूप की विद्या परिषद् से परामर्श के पश्चात् के सिवाय, प्रस्तावित नहीं करेगी।
6. कार्य परिषद्, किसी संबद्ध महाविद्यालय को अध्ययन का विनिर्दिष्ट पाठ्यक्रम संचालित करने के लिए नीचे दी गई शर्तों के अधीन रहते हुए, स्वशासी की हैसियत प्रदान कर सकेगा :-
- (1) कोई संबद्ध महाविद्यालय जिसकी अवस्थिति दस वर्ष से कम न हो और स्थाई संबद्धता अनुदत्त की गई हो, अध्ययन का विनिर्दिष्ट पाठ्यक्रम संचालित करने के लिए स्वायत्तता प्रदान किए जाने हेतु पात्र होगा।
- (2) कोई स्वशासी महाविद्यालय केवल उपाधि तथा स्नातकोत्तर पाठ्यक्रमों, दोनों अंशकालिक तथा पूर्णकालिक अवधियों तक शिक्षण देगा।
- (3) किसी स्वशासी महाविद्यालय को, निम्नलिखित मामलों में स्वायत्तता होगी :
- (क) विश्वविद्यालय की सामान्य पद्धति को कड़ाई से अपनाते हुए पाठ्यक्रम विषय वस्तु का पाठ्य विवरण तैयार करना। पाठ्यक्रम की विषय वस्तु और पद्धति ऐसी रीति से तैयार की जानी चाहिए जिससे विद्यमान कर्मचारिवृंद की सेवाओं का उपयोग हो सके और पुनर्पदांकन के लिए आधिक्य को टाला जा सके।
- (ख) छात्रों को अनुदेशों के लिए व्यवस्था करना।
- (ग) विश्वविद्यालय द्वारा उपाधि या डिप्लोमा प्रदान करने संबंधी गोपनीयता से समझौता किए बिना मूल्यांकन, परीक्षा तथा परीक्षण की विधियाँ खोजना ; और
- (घ) अध्ययन के पाठ्यक्रमों के संबंध में, जिनके लिए स्वायत्तता प्रदान की गई है, छात्रों का प्रवेश।
- (4) स्वायत्त महाविद्यालय को, उस महाविद्यालय को स्वायत्तता की प्राप्ति प्रदान करने के उद्देश्यों को सुनिश्चित करने के प्रयोजनों के लिए जो अधिनियम और उसके अधीन बनायी गई विधियों से असंगत न हो, ऐसे नियम या उपाधियाँ बनाने की शक्ति होगी।
7. महाविद्यालय का शासी निकाय निम्नलिखित व्यक्तियों से मिलकर गठित होगा :
- (1) महाविद्यालय के प्रबन्धन द्वारा 2 वर्ष की कालावधि के लिए तीन सदस्य नाम निर्दिष्ट होंगे जिनमें से एक अध्यक्ष होगा। इस प्रकार नाम निर्दिष्ट किए गए व्यक्तियों में कम से कम एक उत्कृष्ट शिक्षाविद्/वैज्ञानिक/ टेक्नोक्रेट/विधिवेत्ता/प्रबंधन विशेषज्ञ शामिल होगा ;
- (2) संचालक/प्राचार्य द्वारा महाविद्यालय के दो वरिष्ठतम अध्यापक वरिष्ठता के चक्रानुक्रम में, दो वर्ष की कालावधि के लिए नामनिर्दिष्ट किए जाएंगे ;
- (3) विश्वविद्यालय का एक नामनिर्देशिती जो प्राध्यापक की पंक्ति से नीचे का न हो;
- (4) राज्य सरकार का एक नामनिर्देशिती;
- (5) विश्वविद्यालय अनुदान आयोग का एक नामनिर्देशिती ; और
- (6) महाविद्यालय का प्राचार्य – पदेन सदस्य सचिव।
8. शासी निकाय की पदावधि :-
- इस परिनियम के परिनियम-9 के खण्ड (ड) में विनिर्दिष्ट नामनिर्दिष्ट सदस्य की पदावधि दो वर्ष की कालावधि के लिए होगी और इस परिनियम के परिनियम 9 के खण्ड (क) एवं (ख) में विनिर्दिष्ट सदस्यों के सिवाय वही व्यक्ति एक अन्य पदावधि के लिए पुनः नामांकन के लिए पात्र होंगे।

9. **शासी निकाय का सम्मिलन :-** शासी निकाय के कम से कम वर्ष में तीन बार सम्मिलित होंगे

10. **शासी निकाय के कृत्य :-**

- (1) महाविद्यालय में अध्यापन तथा गैर अध्यापन कर्मचारिवृन्द के लिए सेवा शर्तें, परिलब्धियां, यात्रा भत्ते अधिकथित करना ;
- (2) अध्यापन या गैर-अध्यापन कर्मचारिवृन्द के चयन/भर्ती के लिए प्रक्रिया अधिकथित करना और महाविद्यालय में उनकी नियुक्ति करना;
- (3) अध्यापन और गैर अध्यापन कर्मचारिवृन्द के सदस्यों के बीच, इस बारे में अधिकथित नियमों/प्रक्रियाओं के अनुसार, अनुशासन को विनियमित करना तथा पालन कराना ;
- (4) महाविद्यालय से संबंधित किसी धन, स्टॉक्स, निधियों, शेयरों या प्रतिभूतियों में जैसा कि वह समय-समय पर उचित समझे, या अचल संपत्ति का क्रय, भाड़ा/भाटक में विनिधान करना ;
- (5) महाविद्यालय की किसी चल या अचल संपत्ति का अंतरण करना ;
- (6) वित्त समिति के अनुमोदन के अध्वधीन रहते हुए विद्या परिषद् की सिफारिश पर, महाविद्यालय के विद्यार्थियों द्वारा देय फीस तथा अन्य प्रभारों को नियत करना ;
- (7) कर्मचारिवृन्द के सदस्यों और विद्यार्थियों की शिकायतों को ग्रहण करना, उन पर न्याय निर्णय करना और यदि उचित समझे तो शिकायतें दूर करने के लिए सलाह देने हेतु समिति का गठन करना ;
- (8) महाविद्यालय में उसके सुचारु कार्यकरण के लिए प्राचार्य और अन्य कृत्यकारियों को प्रशासनिक और वित्तीय शक्तियां प्रत्यायोजित करना ;
- (9) विनिर्दिष्ट प्रयोजन के लिए विन्यास स्वीकार करना ;
- (10) उपाधि और/या डिप्लोमा तक ले जाने हेतु अध्ययन के नए कार्यक्रम संस्थापित करने की संस्था का अनुमोदन करना ;
- (11) महाविद्यालय की वार्षिक रिपोर्ट का अनुमोदन करना ;
- (12) महाविद्यालय के कर्मचारी की विदेश यात्रा/दौरा/समनुदेशन/शोध-पत्र अध्ययन का अनुमोदन करना ; और
- (13) ऐसे अन्य कृत्यों का निर्वहन करना तथा समितियों की स्थापना करना जो उद्देश्यों के उचित विकास और पूर्ति के लिए आवश्यक और उपयुक्त समझे गए हों जिसके लिए राष्ट्रीयता से संबंधित महाविद्यालय की स्थापना की गई थी।

11. (1) स्वशासी महाविद्यालय, संबंधित विषयों में अध्ययन मण्डलों तथा विद्यापरिषद् की स्थापना करेगा।
- (2) शैक्षणिक मामले में पूर्ववर्ती परिनियम के अधीन गठित विद्यापरिषद् का सामान्यतः महाविद्यालय के प्रबंधन निकाय क्रियान्वित द्वारा किया जाएगा जिस में विश्वविद्यालय का एक प्रतिनिधि होगा।
- (3) अध्ययन मंडल निम्नलिखित से गठित होगा :-
 - (क) विश्वविद्यालय में विषय का विभागाध्यक्ष या उसका नाम निर्देशिती।
 - (ख) महाविद्यालय में, संबंधित विषय का विभागाध्यक्ष, जो रीडर की पंक्ति से नीचे का न हो।
 - (ग) महाविद्यालय में उस विषय के दो से अनधिक संकाय सदस्य।
 - (घ) महाविद्यालय/विश्वविद्यालय से बाहर के दो से अनधिक विशेषज्ञ।
 विश्वविद्यालय इस प्रवर्ग के अधीन संख्याओं को निर्बाधित कर सेवा आदि के वर्षों की संख्या के संदर्भ सहित अर्हताएं विहित करेगा।

12. शासी परिषद् में महाविद्यालय की वरिष्ठतानुसार चक्रानुक्रम द्वारा, संकायों को विचार में लाए बिना, महाविद्यालय के दो संकाय सदस्यों के अतिरिक्त विश्वविद्यालय का नामनिर्देशिती, चिकित्सा शिक्षा का संचालक या उसका नामनिर्देशिती होंगे।

13. स्वशासी महाविद्यालय द्वारा गठित अध्ययन मण्डल में विश्वविद्यालय से एक विशेषज्ञ सम्मिलित करते हुए बाहरी विशेषज्ञ होंगे।

14. (1) विद्या परिषद् निम्नलिखित से गठित होगी :-

(क) महाविद्यालय का संचालक/ महाविद्यालय प्राचार्य	—	अध्यक्ष
(ख) समस्त विभागाध्यक्ष	—	सदस्य
(ग) वरिष्ठतानुसार एक वर्ष की कालावधि के लिए चक्रानुक्रम द्वारा प्रत्येक विभाग से एक-एक प्राध्यापक	—	सदस्य
(घ) वरिष्ठतानुसार एक वर्ष की कालावधि के लिए चक्रानुक्रम द्वारा प्रत्येक विभाग से एक-एक उपाचार्य (रीडर)	—	सदस्य

- (ड) कुलपति द्वारा नामनिर्दिष्ट तीन विश्वविद्यालय प्रतिनिधि — सदस्य
 (च) चिकित्सा शिक्षा का संचालक या उसका नामनिर्देशिती — सदस्य
 (छ) शासी निकाय का अध्यक्ष तथा सचिव — सदस्य
- (2) प्राचार्य/संचालक की अनुपस्थिति में प्रभारी प्राचार्य/प्रभारी संचालक विद्या परिषद् का अध्यक्ष होगा।
 (3) स्वशासी महाविद्यालय द्वारा गठित परिषद् में समस्त स्तरों पर महा विद्यालय के संकायों अंतर्बलित होंगे तथा विश्वविद्यालय द्वारा विशेषज्ञ नियुक्त किए जाएंगे।
 (4) महाविद्यालय की विद्या परिषद् द्वारा अनुमोदित अध्ययन के पाठ्यक्रमों, परीक्षाओं की स्कीम तथा पाठ्यक्रम, विश्वविद्यालय की विद्यापरिषद् को अंतिम अनुमोदन के लिए प्रस्तुत किया जाएगा।
 (5) शैक्षणिक मानक को बनाए रखने के लिए, विश्वविद्यालय की विद्या परिषद् द्वारा नामनिर्दिष्ट व्यक्ति द्वारा परीक्षा की प्रक्रिया और संचालन का किसी भी समय निरीक्षण किया जा सकेगा तथा छानबीन की जा सकेगी।
15. (1) वित्त समिति निम्नलिखित व्यक्तियों से गठित होगी:—
 (क) संस्था का संचालक/प्राचार्य — अध्यक्ष
 (ख) महाविद्यालय के शासी निकाय द्वारा दो वर्ष की कालावधि के लिए नामनिर्दिष्ट एक व्यक्ति — सदस्य
 (ग) संचालक/प्राचार्य द्वारा दो वर्ष के लिए, चक्रानुक्रम में नामनिर्दिष्ट, महाविद्यालय का एक वरिष्ठतम शिक्षण कर्मचारी सदस्य — सदस्य
 (घ) विश्वविद्यालय का वित्त नियंत्रक या उसका नामनिर्देशिती जो उप कुलसचिव की पंक्ति से नीचे का न हो — सदस्य
- (2) वित्त समिति, शासी निकाय का एक सलाहकार निकाय होगी और वर्ष में कम से कम दो बार अपनी बैठक करेगी।
 (3) महाविद्यालय के संचालक/प्राचार्य द्वारा वित्त समिति के समक्ष पदों के सृजन, व्यय की स्वीकृति, वार्षिक लेखे, वित्तीय प्राक्कलन और संपरीक्षा रिपोर्ट से संबंधित समस्त प्रस्ताव वित्तीय समिति को सलाह हेतु शासी निकाय को सिफारिशों के लिए प्रस्तुत किए जाएंगे।
 (4) योजना और मूल्यांकन समिति निम्नलिखित व्यक्तियों से मिलकर गठित होगी :—
 (क) महाविद्यालय का संचालक/प्राचार्य — अध्यक्ष
 (ख) संचालक/प्राचार्य द्वारा वरिष्ठता के क्रम में चक्रानुक्रम द्वारा नामनिर्दिष्ट दो विभागाध्यक्ष — सदस्य
 (ग) विश्वविद्यालय के दो विशेषज्ञ नामनिर्देशिती — सदस्य
 (घ) शासी निकाय द्वारा नामनिर्दिष्ट महाविद्यालय/विश्वविद्यालय के बाहर से एक विशेषज्ञ — सदस्य
 (ङ) महाविद्यालय का पुस्तकालयाध्यक्ष — सदस्य
 (च) संचालक/ प्राचार्य द्वारा वरिष्ठता के क्रम में, चक्रानुक्रम द्वारा नामनिर्दिष्ट विभागाध्यक्ष से भिन्न एक शैक्षणिक कर्मचारी — सदस्य
 (छ) संचालक/प्राचार्य द्वारा वरिष्ठता क्रम में, चक्रानुक्रम द्वारा नामनिर्दिष्ट किया जाने वाला कर्मचारिवृंद का एक गैर शैक्षणिक सदस्य — सदस्य
 (ज) संचालक/प्राचार्य द्वारा शैक्षणिक काम के आधार पर नामनिर्दिष्ट एक स्नातकोत्तर या कोई एक पूर्वस्नातक छात्र — सदस्य।
 (झ) महाविद्यालय का एक उत्कृष्ट पुरुष खिलाड़ी /महिला खिलाड़ी — सदस्य
- (5) योजना और मूल्यांकन समिति की पदावधि नामनिर्दिष्ट सदस्यों की पदावधि दो वर्ष की होगी। विश्वविद्यालय और शासी निकाय के विशेषज्ञ के नामनिर्देशिती पुन नामांकन के लिए पात्र होंगे।
 (6) समिति का सम्मिलन :— समिति का वर्ष में कम से कम दो बार सम्मिलन होगा।
 (7) समिति के कृत्य :— समिति, संचालक/प्राचार्य, शासी निकाय और विद्यापरिषद् को निम्न विषयों पर सलाह देगी ;
 (क) महाविद्यालय के विकास के लिए योजनाएं तथा महाविद्यालय में शिक्षण और अनुशासन के स्तरों में गिरावट को रोकने के लिए आवश्यक उपाय ;
 (ख) कर्मचारिवृंद और छात्रों के बारे में विभिन्न कार्यक्रम और सामान्य कल्याण क्रियाकलापों को कार्यान्वयन करने के लिए सभी तरीकों तथा साधनों ; और
 (ग) महाविद्यालय के कामकाज में सामान्य सुधार के लिए आवश्यक उपाय।
16. स्वशासी महाविद्यालय द्वारा प्रदान किए गए अध्ययन के पाठ्यक्रमों में छात्रों के प्रवेश के लिए राज्य सरकार द्वारा समय-समय पर अधिकथित अनुसूचित जातियों, अनुसूचित जनजातियों तथा अन्य पिछड़ा वर्गों के अभ्यर्थियों के

- आरक्षण के अधिनियम तथा नियमों के अधीन रहते हुए, संबंधित अध्ययन के पाठ्यक्रमों के लिए विश्वविद्यालय द्वारा अधिकथित न्यूनतम अर्हताओं की पुष्टि करेगा।
17. विश्वविद्यालय को उन व्यक्तियों को उपाधि, अधिमान, पत्रोपाधि और अन्य विद्या संबंधी विशेष उपाधियां प्रदान करने की शक्ति होगी जिन्होंने किसी स्वशासी महाविद्यालय में अध्ययन के अनुमोदित पाठ्यक्रम का अध्ययन कर लिया हो तथापि स्वशासी महाविद्यालय का नाम अभ्यर्थियों को जारी की गई पत्रोपाधि में उपदर्शित होगा।
 18. (1) तीन वर्षों के अन्त में महाविद्यालय के कृत्यों का पुनर्विलोकन करने के अधीन रहते हुए, किसी संबद्ध महाविद्यालय को एक बार में पांच वर्ष से अनधिक की कालावधि के लिए स्वायत्तता की प्राप्ति प्रदान की जा सकेगी।
(2) कार्यपरिषद् महाविद्यालय द्वारा आवेदन किए जाने पर, पांच वर्ष से परे कालावधि का विस्तार करने के लिए सक्षम होगी।
 19. कार्यपरिषद् को स्तरों में गिरावट या किसी अन्य पर्याप्त कारणों से कालावधि समाप्त होने के पहले संबंधित महाविद्यालय को ऐसे आशय की किसी भी समय जांच और सम्यक सूचना देने के पश्चात्, प्रदत्त की गई स्वायत्तता समाप्त करने की शक्ति होगी।
 20. (1) किसी संबद्ध महाविद्यालय को स्वायत्त प्राप्ति के प्रदान किए जाने पर भी, विश्वविद्यालय के अधिनियम, परिनियमों, अध्यादेशों और विनियमों के उपबंध इस परिनियम में विनिर्दिष्ट विषयों से संबंधित के सिवाय महाविद्यालय पर लागू होंगे। विश्वविद्यालय, ऐसे महाविद्यालय पर पर्यवेक्षण की अपनी सामान्य शक्ति को प्रयोग करना जारी रखेगा।
(2) विश्वविद्यालय को इन महाविद्यालयों के कार्यकलापों का अनुश्रवण करने के लिए एक सलाहकार निकाय गठित करने की शक्ति होगी।
 21. कार्य परिषद्, समय-समय पर, स्वायत्त प्राप्ति के लिए आवेदन करने के लिए महाविद्यालयों को आमंत्रित करने पर और उसके अनुरक्षण में कुल सचिव, जांच के पश्चात् सभी ऐसे आवेदन को विचारण के लिए कार्य परिषद् के समक्ष रखेगा, और कार्य परिषद् इस प्रयोजन के लिए विनिर्दिष्ट मानदंडों के अनुसार आवेदन पत्रों पर विनिश्चय करेगी।
 22. महाविद्यालय स्वायत्त प्राप्ति की मंजूरी के लिए आवेदन के साथ विश्वविद्यालय को शुल्क रूप 25,000 (रुपए पच्चीस हजार मात्र) संदत्त करेगा।
 23. कार्य परिषद् स्वायत्तता के आवेदनों के संबंध में ऐसी जांच करेगी जैसी कि आवश्यक हो और राज्य सरकार के परामर्श से ऐसी जांचों के आधार पर अपना विनिश्चय करेगी।

परिनियम –इकतीस

गैर शैक्षणिक कर्मचारियों की नियुक्ति

1. **संक्षिप्त नाम .-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (गैर शैक्षणिक कर्मचारियों की नियुक्ति) परिनियम, 2013 है।
2. **परिभाषा .-** इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
(क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
(ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. **राज्य सरकार के नियम लागू होना :** जब तक विश्वविद्यालय के अधिनियम, परिनियम, अध्यादेश और विनियमों में अन्यथा उपवर्णित न हो, मध्यप्रदेश सिविल सेवाएं (सेवा की सामान्य शर्तें) नियम, 1961 और मध्यप्रदेश सिविल सेवाएं

(वर्गीकरण, नियंत्रण और अपील) नियम, 1966, राज्य शासन द्वारा समय-समय पर यथा संशोधित, इस परिनियम के प्रयोजन के लिए लागू होंगे।

4. वर्गीकरण, वेतनमान और पदों की संख्या : सेवाओं का वर्गीकरण, वेतन बेण्ड और उससे संलग्न ग्रेड-पे और पदों की संख्या राज्य सरकार की मंजूरी के अनुसार होगी।

5. **आरक्षण :**

- (1) अनुसूचित जाति, अनुसूचित जनजाति, अन्य पिछड़ा वर्गों आदि के अभ्यर्थियों के लिए नियुक्ति और पदोन्नति के मामले में आरक्षण राज्य सरकार के विश्वविद्यालय के विश्वविद्यालय गैर-शिक्षण कर्मचारियों, को लागू होने वाले नियमों के अनुसार होगा।
- (2) अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य पिछड़े वर्गों से संबंधित व्यक्तियों के लिए पद, सीधी भर्ती के प्रक्रम में मध्यप्रदेश लोक सेवा (अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य पिछड़े वर्गों के लिए आरक्षण) अधिनियम, 1994 (क्रमांक 21 सन् 1994) और समय-समय पर राज्य शासन द्वारा जारी आदेशों में अन्तर्विष्ट उपबंधों के अनुसार आरक्षित होंगे।
- (3) महिला अभ्यर्थियों के लिए मध्यप्रदेश सिविल सेवाएं (महिलाओं की नियुक्ति के लिए विशेष प्रावधान) नियम, 1997 के उपबंधों के अनुसार पद आरक्षित होंगे।
- (4) विकलांग अभ्यर्थियों के लिए सामान्य प्रशासन विभाग, मध्यप्रदेश शासन के निर्देश के अनुसार पद आरक्षित होंगे।

6. **विज्ञापन, आवेदन :** सीधी भर्ती की दशा में चयन और नियुक्ति, विज्ञापन के पश्चात् ही की जाएगी। अभ्यर्थी, विज्ञापन के प्रकाशन के दिनांक से कम से कम तीन सप्ताह के समय में विश्वविद्यालय द्वारा विहित प्ररूप में आवेदन करेगा।

7. **सीधी भर्ती के लिए अर्हता की शर्तें** :- प्रतियोगी परीक्षा/चयन के लिए अर्ह होने के लिए अभ्यर्थी को निम्नलिखित शर्तें पूरी करनी होंगी, अर्थात् :-

- (1) अभ्यर्थी की आयु राज्य सरकार द्वारा बनाए गए नियमों के अनुसार विहित आयु से अधिक न हो।
- (2) **शैक्षणिक अर्हता** :- अभ्यर्थी को किसी भी पद के लिए न्यूनतम अर्हता धारित करना आवश्यक है जो उसे पद के लिए राज्य सरकार द्वारा अभिकथित अर्हताएं, यदि कोई है का, विचार में लेते हुए विश्वविद्यालय के परिनियम/अध्यादेश/विनियम द्वारा विनिश्चय के अनुसार होगी।
- (3) अभ्यर्थी को विश्वविद्यालय द्वारा विहित फीस का संदाय करना होगा।

8. **छानबीन समिति आवेदन पत्र के साथ संलग्न दस्तावेजों के आधार पर अभ्यर्थियों के आवेदनों की छटनी करने के लिए और अभ्यर्थी न्यूनतम अर्हता धारित करता है या नहीं, का सत्यापन करने के लिए** कुलपति द्वारा विश्वविद्यालय के अध्यापकों और अधिकारियों में से एक छानबीन समिति नियुक्त की जाएगी। केवल उन्ही आवेदनों को आगामी प्रक्रिया में लिया जाएगा जो न्यूनतम अर्हता रखते हैं। किसी विवाद की दशा में, परीक्षा/चयन के लिए अभ्यर्थी की अर्हता के संबंध में कुलपति का विनिश्चय अंतिम होगा। उस उम्मीदवार को जिसे नियुक्ति प्राधिकारी द्वारा प्रवेश प्रमाण पत्र जारी नहीं किया गया है, उसे परीक्षा/साक्षात्कार में उपस्थित होने हेतु अनुज्ञात नहीं किया जाएगा।

9. **निरर्हता :-**

- (1) किसी अभ्यर्थी की ओर से अपनी अभ्यर्थिता के लिए किसी भी साधन से समर्थन अभिप्राप्त करने के किसी भी प्रयास को नियुक्ति प्राधिकारी द्वारा परीक्षा, साक्षात्कार या चयन में उसके उपस्थित होने के लिए निरर्हता माना जा सकेगा।
- (2) कोई अभ्यर्थी, जिसने विवाह के लिए विहित की गई आयु से पूर्व विवाह कर लिया हो किसी सेवा या पद के लिए पात्र नहीं होगा।
- (3) कोई अभ्यर्थी जिसकी दो से अधिक जीवित संतानें हो जिनमें से एक का जन्म 26 जनवरी, 2001 को या उसके पश्चात् हुआ हो तो किसी सेवा या पद के लिये पात्र नहीं होगा :
परंतु कोई अभ्यर्थी, जिसकी पहले से एक जीवित संतान है तथा आगामी प्रसव 26 जनवरी, 2001 को या उसके पश्चात् हुआ हो, जिसमें दो या दो से अधिक संतान का जन्म होता है, किसी सेवा या पद पर नियुक्ति के लिए निरर्हता नहीं होगा।

10. **सेवा के लिए भर्ती :**

- (1) सेवा के लिए भर्ती निम्न लिखित विधियों द्वारा की जाएगी, अर्थात् :-
(क) प्रतियोगी परीक्षा/चयन/साक्षात्कार द्वारा सीधी भर्ती द्वारा ;
(ख) परिनियमों/अध्यादेशों/विनियमों में समय-समय पर यथा विनिर्दिष्ट सेवा के सदस्यों की पदोन्नति द्वारा ;

- (ग) उन व्यक्तियों के स्थानांतरण द्वारा जो ऐसी सेवाओं में ऐसे पदों को मूल या स्थानापन्न हैसियत में धारण करते हों जैसी कि विश्वविद्यालय द्वारा इस निमित्त विनिर्दिष्ट किया जाए ; इस परिनियम के खण्ड (क), खण्ड (ख) और खण्ड (ग) के अधीन भर्ती किए गए व्यक्तियों की संख्या किसी भी समय राज्य सरकार द्वारा मंजूर किए गए पदों की संख्या से अधिक नहीं होगी।
- (2) (क) विश्वविद्यालय के गैर शैक्षणिक कर्मचारियों की समस्त नियुक्तियां, चयन समिति के माध्यम से गुणागुण के आधार पर की जाएंगी। चयन के लिए अपनाया जाने वाला तरीका, कुलपति द्वारा निम्नलिखित पद्धतियों में से विनिश्चित किया जाएगा :-
1. विश्वविद्यालय द्वारा आयोजित की जाने वाली लिखित परीक्षा।
 2. कुलपति द्वारा नियुक्त किए गए विशेषज्ञों द्वारा पदों के लिए आवश्यक प्रायोगिक मूल्यांकन।
 3. चयन समिति द्वारा साक्षात्कार
- परंतु सभी तकनीकी पदों के लिए भर्ती जिनमें कम्प्यूटर्स के प्रयोग की आवश्यकता होती है, भी सम्मिलित है, उपरोक्त वर्णित तरीका (दो) का अनुसरण किए बिना नहीं की जाएगी।
- (ख) चयन समिति अभ्यर्थियों की योग्यता के क्रम में एक सूची और अनुसूचित जातियों, अनुसूचित जनजातियों और पिछड़ा वर्गों के अभ्यर्थियों की जो यद्यपि उस स्तर से अर्हित नहीं हैं, किन्तु जिन्हें प्रशासन में दक्षता बनाए रखने का समुचित ध्यान रखते हुए, चयन समिति द्वारा सेवा में नियुक्ति के लिए उपयुक्त घोषित किया गया है एक सूची तैयार करेगी और नियुक्ति प्राधिकारी को अग्रेषित करेगी।
- (ग) अस्थायी विश्वविद्यालय कर्मचारी, आकस्मिकता निधि से भुगतान पाने वाले कर्मचारी, कार्यभारित कर्मचारी और इस विश्वविद्यालय की परियोजनाओं में कार्यरत कर्मचारियों को, यदि उन्होंने 6 वर्ष की सेवा पूर्ण करली है (एक कलेण्डर वर्ष में 240 दिन), अंतिम योग्यता सूची की तैयारी में 20 अंक का अतिरिक्त लाभ मिलेगा।
- (3) इन विनियमों और मध्यप्रदेश सिविल सेवा (सेवा की सामान्य शर्तें) नियम, 1961 के उपबंधों के अधधीन रहते हुए, उपलब्ध रिक्तियों पर, नियुक्ति के लिए सूची से अभ्यर्थियों पर विचार किया जाएगा।
- (4) चयन सूची, में किसी अभ्यर्थी का नाम सम्मिलित किए जाने से ही उसे नियुक्ति का अधिकार तब तक प्राप्त नहीं होता, जब तक कि नियुक्ति प्राधिकारी का ऐसी जांच करने के पश्चात जैसी कि वह आवश्यक समझे, यह समाधान नहीं हो जाए कि अभ्यर्थी सेवा में नियुक्ति के लिए सभी प्रकार से उपयुक्त है।
- (5) चयन सूची, नियुक्ति प्राधिकारी द्वारा अनुमोदन की दिनांक से एक वर्ष की कालावधि तक विधि मान्य रहेगी। सभी सेवा कर्मियों के नियुक्ति आदेश विश्वविद्यालय के कुलसचिव द्वारा जारी किए जाएंगे।
- (6) कुलपति चयन समिति द्वारा अनुशंसित नामों में से रिक्तियों पर नियुक्ति करेगा।
- (7) दैनिक वेतन भोगी जो विश्वविद्यालय में वर्ष तीन और चार के पदों पर चालकों सहित भिन्न भिन्न हैं, जो इन परिनियमों/विनियमों के लागू होने पूर्व से लगातार कार्यरत रहे हैं यदि वे सभी आवश्यक पात्रता मानदण्डों की पूर्ती करते हैं, चयन समिति की अनुशंसा पर कुलपति द्वारा नियमितिकरण पर विचार किया जा सकता है।
- (8) कुलसचिव, मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय जबलपुर, विश्वविद्यालय के नियमों के अनुसार सभी वांछित औपचारिकताओं के लिए व्यवस्था करेगा।
11. चयन समिति : चयन समिति के सदस्य निम्नानुसार होंगे :
- (1) चेयरमेन - कुलपति या प्राध्यापक की श्रेणी से अनिम्न उनका नामित
 - (2) सदस्य सचिव - कुल सचिव या उसकी अनुपस्थिति में कुलपति द्वारा नाम निर्देशित उप कुल सचिव।
 - (3) सदस्य - कुलपति द्वारा नाम निर्देशित एक विशेषज्ञ, उन से भिन्न जिन्होंने अभ्यर्थियों का प्रायोगिक मूल्यांकन किया।
 - (4) सदस्य - कुलपति द्वारा नाम निर्देशित विश्वविद्यालय शिक्षण विभाग का एक प्राध्यापक :
परंतु यदि विश्वविद्यालय शिक्षण विभाग में प्राध्यापक उपलब्ध नहीं है तो विश्वविद्यालय से संबद्ध किसी शासकीय महाविद्यालय में कुलपति द्वारा नामनिर्देशित प्राचार्य या प्राध्यापक।
 - (5) सदस्य - अनुसूचित जाति / अनुसूचित जनजाति/ अन्य पिछड़ा वर्ग से संबंधित विश्वविद्यालय अध्यापन विभाग का कुलपति द्वारा नाम निर्देशित एक प्राध्यापक/ सह प्राध्यापक

- (6) सदस्य – वित्त नियंत्रक या उसकी अनुपस्थिति में कुलपति द्वारा नाम निर्देशित कोई उप कुल सचिव।
- चेयरमेन, सदस्य सचिव और एक विशेषज्ञ— इन तीन सदस्यों से गणपूर्ती होगी।
 - खण्ड (तीन), (चार) और (पांच) में सदस्यों का कार्यकाल कुलपति के द्वारा विनिश्चित किया जाएगा।
 - चयन समिति का सम्मिलन कुलपति के आदेश के अधीन आयोजित किया जाएगा।
 - चयन समिति का कोई सदस्य, अभ्यर्थियों में अपने से संबंधित एक में व्यक्तिगत रुचि रखता है, जब चयन विचाराधीन है, सम्मिलन से वापिस बुला लिया जाएगा।
12. **सेवा की शर्तें :** कर्मचारियों की सेवा की शर्तें वही होंगी जो मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय, जबलपुर के परिनियम/अध्यादेश/विनियम में यथा विहित है।
13. **परिवीक्षा :**
- (1) सामान्यतः किसी स्थाई पद के विरुद्ध नियुक्ति एक बार में दो वर्ष की कालावधि के लिए परिवीक्षा पर होगी। परिवीक्षा की कालावधि नियुक्ति प्राधिकारी द्वारा बढ़ायी जा सकेगी, किन्तु परिवीक्षा की कुल कालावधि किसी भी दशा में तीन वर्ष से अधिक नहीं होगी।
 - (2) सामान्यतः किसी व्यक्ति को शासकीय चिकित्सा मण्डल द्वारा दिए गए स्वास्थ्य एवं शारीरिक उपयुक्तता के प्रमाण पत्र को प्रस्तुत करने पर विश्वविद्यालय सेवा में नियुक्त जाएगा।
 - (3) यदि नियुक्ति अधिकारी पाता है कि परिवीक्षा पर कर्मचारी का कार्य और/या आचरण सन्तोषजनक नहीं है, उसकी सेवाएं समाप्त की जा सकेगी। परिवीक्षा पर कर्मचारी की सेवाओं की समाप्ति की दशा में, उसे एक माह की सूचना दी जाएगी या सूचना के स्थान पर उसे एक माह का वेतन संदाय किया जाएगा। परिवीक्षाधीन भी विश्वविद्यालय को एक माह की सूचना या एक माह का वेतन देकर विश्वविद्यालय छोड़ सकेगा।
 - (4) यदि परिवीक्षाधीन पदोन्नति द्वारा नियुक्त किया गया और उसका कार्य और/या आचरण संतोषजनक नहीं है, नियुक्ति प्राधिकारी उसको ऐसी नियुक्ति से पूर्व उसके द्वारा धारित पद पर प्रतिवर्तित कर सकेगा और ऐसा प्रतिवर्तन शास्ती नहीं समझा जाएगा।
14. **पदोन्नति द्वारा नियुक्ति –**
- (1) पात्र अभ्यर्थियों के चयन करने के लिए उपरोक्तानुसार सदस्यों से मिलकर गठित एक समिति भी होगी।
 - (2) विभागीय पदोन्नति समिति की बैठक ऐसे अन्तरालों से होगी, जैसा कि नियुक्ति प्राधिकारी निर्देश दे, किन्तु साधारणतः एक वर्ष से अधिक नहीं।
 - (3) चयन प्रक्रिया और पदोन्नति द्वारा नियुक्ति, मध्यप्रदेश लोक सेवा आयोग (पदोन्नति) नियम, 2002 के उपबंधों और मध्यप्रदेश शासन के सामान्य प्रशासन विभाग के निर्देशों के अनुसार होगी।
 - (4) नियुक्ति प्राधिकारी द्वारा प्रमाणन – नियुक्ति प्राधिकारी उसके द्वारा जारी किए जाने वाले प्रत्येक पदोन्नति आदेश पर इस आशय का पृष्ठांकन करेगा कि उसने मध्यप्रदेश लोक सेवा (अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य पिछड़े वर्गों के लिए आरक्षण) अधिनियम, 1994 (क्रमांक 21 सन् 1994) और मध्यप्रदेश लोक सेवा आयोग (पदोन्नति) नियम, 2002 के उपबंधों और राज्य सरकार द्वारा जारी निर्देशों का अनुपालन किया है।
15. **उपयुक्त अभ्यर्थियों की सूची तैयार करना .—**
- (1) विभागीय पदोन्नति समिति ऐसे व्यक्तियों की सूची तैयार करेगी जो मध्यप्रदेश लोक सेवा (पदोन्नति) नियम, 2002 के उपबंधों के अनुसार सेवा की पदोन्नति के लिए उपयुक्त पाए जाते हैं। उक्त सूची में सम्मिलित व्यक्तियों की संख्या के 25 प्रतिशत व्यक्तियों को सम्मिलित कर एक आरक्षित सूची वर्ष के दौरान उद्भूत होने वाली अनवेक्षित रिक्तियों की पूर्ती करने के लिए तैयार की जाएगी।
 - (2) सूची में सम्मिलित व्यक्तियों के नाम प्रत्येक चयन सूची तैयार करते समय, सेवा या पदों में ज्येष्ठता के क्रम में व्यवस्थित होंगे।
 - (3) इस प्रकार तैयार की गई सूची का प्रत्येक वर्ष पुनर्विलोकन तथा पुनरीक्षण किया जाएगा।

16. चयन सूची –
 - (1) नियुक्ति प्राधिकारी, समिति से प्राप्त अन्य दस्तावेजों के साथ, समिति द्वारा तैयार की गई सूची पर विचार करेगी।
 - (2) यदि नियुक्ति प्राधिकारी, समिति से प्राप्त सूची में कोई परिवर्तन करना आवश्यक समझे तो वह प्रस्तावित परिवर्तनों की सूचना समिति को देगा तथा समिति, सूची को ऐसे उपांतरणों के साथ अंतिम रूप से अनुमोदित कर सकेगी।
 - (3) नियुक्ति प्राधिकारी द्वारा अंतिम रूप से यथा अनुमोदित सूची से पदोन्नतियां की जा सकेंगी।
17. चयन सूची से सेवा में नियुक्ति – चयन सूची में व्यक्तियों की नियुक्ति उसी क्रम से की जाएगी जिस क्रम में ऐसे अभ्यर्थियों के नाम चयन सूची में आए हों।
18. संविदा/दैनिक वेतन पर नियुक्ति : अस्थाई पद या स्थाई पद के संबंध में छुट्टी के कारण हुई रिक्ति में अस्थाई नियुक्ति की जा सकेगी। विश्वविद्यालय के सुचारु संचालन के लिए जैसी आवश्यकता हो कुलपति द्वारा रिक्त पदों के विरुद्ध संविदा/दैनिक वेतन के आधार पर अकुशल एवं कुशल कर्मचारियों की नियुक्ति कर सकेगा। भूतपूर्व सेवक/सेवा निवृत्त शासकीय सेवक, अच्छी सेवा अभिलेख सहित, चयन समिति की अनुशंसा पर कुलपति द्वारा संविदा आधार पर नियुक्त किया जा सकता है।
19. सीधी भर्ती कोटा की दशा में चयन, मध्यप्रदेश शासन के मार्गदर्शन के अनुसार, अभिकरण जैसे कि मध्यप्रदेश व्यवसायिक परीक्षा मण्डल भोपाल (व्यापम)/अन्य के माध्यम से कराया जाएगा। बाह्य स्त्रोत की दशा में, विश्वविद्यालय बाह्य स्त्रोत अभिकरण के द्वारा उपलब्ध कराए गए चयनित अभ्यर्थियों के पूल में अभिरुचि परीक्षण करने और अंतिम साक्षात्कार को विनिश्चय कर सकेगा। किसी विवाद की दशा में कुलपति का विनिश्चय अंतिम होगा।
20. दैनिक वेतन भोगी जो विश्वविद्यालय में वर्ग तीन और वर्ग चार पदों की विभिन्न हैसियत में चालक सहित इन विनियमों के लागू होने के पूर्व से लगातार कार्यरत रहे हैं, यदि वे सभी आवश्यक पात्रता मानदंडों की पूर्ती करते हैं तो चयन समिति को अनुशंसा पर कुलपति द्वारा नियमितिकरण पर विचार किया जा सकेगा।

परिनियम- बत्तीस

पेंशन योजना

1. **संक्षिप्त नाम.** – इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (पेंशन योजना) परिनियम, 2013 है।
2. **परिभाषाएं.** – इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, –
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. राज्य शासन ने अपने कर्मचारियों के लिए “नवीन पेंशन योजना” के नाम से एक पेंशन योजना बनाई है (राज्य शासन के परिपत्र क्रमांक एफ/9/3/2003/नियम/चार, दिनांक 29/12/2005) वही योजना विश्वविद्यालय के कर्मचारियों को भी लागू होगी।
4. नवीन पेंशन योजना विश्वविद्यालय में नियुक्त किए गए सभी नए नियमित कर्मचारियों को लागू होगी। आकस्मिक व्यय तथा कार्य भारित सेवा के स्थाई सदस्यों को भी लागू होगी। यह आकस्मिक व्यय और कार्यभारित सेवा के अस्थाई सदस्यों, दैनिक वेतन भोगी कर्मचारियों तथा संविदा कर्मचारियों को लागू नहीं होगी।

5. राज्य शासन कर्मचारियों को लागू मध्यप्रदेश सिविल सेवाएं पेंशन नियम, 1976 और मध्यप्रदेश सामान्य भविष्यनिधि नियम, 1955 के समरूप कोई अन्य योजना विश्वविद्यालय कर्मचारियों को लागू नहीं होगी। परंतु कोई कर्मचारी जो 01/01/2005 से पूर्व राज्य शासन में या राज्य विश्वविद्यालय में नियमित सेवा में था और उसके पश्चात् राज्य शासन के नियमों के अनुसार सेवा में निरन्तरता बनाए रखने के समय इस विश्वविद्यालय में नियुक्त किया गया है या इस विश्वविद्यालय में प्रतिनियुक्ति पर है तो उसको मध्यप्रदेश सिविल सेवा पेंशन नियम, 1976 और मध्यप्रदेश सामान्य भविष्य निधि नियम, 1955 और राज्य विश्वविद्यालयों की समरूप योजनाएं लागू रहेंगी।

नवीन पेंशन योजना की श्रेणी-1

6. नवीन पेंशन योजना में प्रत्येक कर्मचारी के लिए एक पेंशन निधि की स्थापना की जाएगी। विश्वविद्यालय इस प्रयोजन के लिए विश्वविद्यालय द्वारा नामनिर्दिष्ट अनुसूचित बैंक में निक्षेप करने के द्वारा पेंशन निधि का प्रबंध करेगा ताकि रकम अधिकतम ब्याज आर्जित कर सके और अपने कर्मचारियों की पेंशन निधि के लिए राज्य शासन द्वारा घोषित दर से कम न तो। खाता कुलसचिव और कर्मचारी के संयुक्त नाम से होगा।
7. प्रत्येक कर्मचारी जो विश्वविद्यालय में पद ग्रहण करता है स्वयं के संबंध में जानकारी देने वाला प्ररूप जैसे नाम, पिता का नाम, जन्मतिथि, पता, पद, विभाग/अनुभाग, पदग्रहण करने की तारीख, वेतनबैंड ग्रेडपे, मूलवेतन, नाम निर्देशिती के नाम, उनकी आयु सहित निर्देशितियों से संबंध इत्यादि प्ररूप (परिशिष्ट- एक) भरेगा; प्ररूप चार प्रतियों में भरा जाएगा और विभागाध्यक्ष/अनुभाग प्रभारी द्वारा विश्वविद्यालय के कुलसचिव को अग्रेषित किया जाएगा। उपरोक्त पैरा 5 में यथा उपवर्णित बैंक में कर्मचारी की पेंशन निधि का एक खाता खोला जाएगा। बैंक द्वारा आवंटित खाता क्रमांक, कर्मचारी का सूचकांक होगा। इस सूचकांक को विश्वविद्यालय कार्यालय द्वारा उक्त प्ररूप में प्रविष्ट किया जाएगा। तत्पश्चात् प्ररूप पर कुलसचिव के द्वारा हस्ताक्षर होंगे। प्ररूप की एक प्रति स्थापना शाखा द्वारा रखी जाएगी और दूसरी विश्वविद्यालय के लेखा अनुभाग में; एक प्रति विभाग/अनुभाग में रखी जाएगी और एक प्रति कर्मचारी को उसके स्वयं के अभिलेख के लिए लौटा दी जाएगी।
8. कर्मचारी अपनी मूलवेतन + मंहगाई वेतन + मंहगाई भत्ता का 10 प्रतिशत पेंशन निधि को अभिदाय करेगा। विश्वविद्यालय भी पेंशन निधि में बराबर रकम अभिदाय करेगा। अभिदाय के परिकलन के समय रूपए के भाग को एक रूपए माना जाएगा/कर्मचारी के अभिदाय का परिकलन करते समय मंहगाई भत्ते के अतिरिक्त कोई अन्य भत्ता/विशेष वेतन सम्मिलित नहीं किया जाएगा।
9. (1) कर्मचारी का अभिदाय हर माह कर्मचारी के वेतन से काट लिया जाएगा। परंतु कटौती उस माह के वेतन से नहीं की जाएगी जिसमें कर्मचारी सेवा में पद ग्रहण करेगा। कटौती आगामी माह के वेतन से आरंभ होगी।
 (2) प्रत्येक कर्मचारी को पेंशन निधि में निक्षिप्त रकम और उस वित्तीय वर्ष में प्रोदभूत ब्याज की वार्षिक लेखा पर्ची परिशिष्ट दो के अनुसार जारी की जाएगी।
 (3) पेंशन निधि में निक्षिप्त रकम पर ब्याज प्रोदभूत होगा। ब्याज की दर राज्य शासन द्वारा समय-समय पर भविष्य निधि के लिए घोषित ब्याज दर के समान होगी।
 (4) कर्मचारी की सेवानिवृत्ति के उपरांत, उसके खाते में ब्याज सहित निक्षिप्त कुल रकम का 40 प्रतिशत अनिवार्य रूप से आई.आर.डी.ए. (बीमा विनियामक और विकास प्राधिकरण) द्वारा विनियमित एक जीवन बीमा कम्पनी की वार्षिकी क्रय करने के लिए विनिहित की जाएगी जिसके माध्यम से वह मासिक पेंशन प्राप्त करेगा। शेष 60 प्रतिशत रकम कर्मचारी को एकल किस्त प्रदान कर दी जाएगी और।
10. (1) यदि कोई कर्मचारी सेवा निवृत्ति के पूर्व सेवा छोड़ता है, तब उसके खाते में ब्याज सहित निक्षिप्त कुल रकम का 80 प्रतिशत अनिवार्य रूप से आई.आर.डी.ए. (बीमा विनियामक और विकास प्राधिकरण) द्वारा विनियमित एक जीवन बीमा कंपनी की वार्षिकी क्रय करने के लिए विनिहित की जाएगी जिसके माध्यम से वह मासिक पेंशन प्राप्त करेगा। शेष 20 प्रतिशत रकम एकल किस्त में कर्मचारी को प्रदान कर दी जाएगी।
 (2) यदि कोई कर्मचारी सेवा निवृत्ति के पूर्व मर जाता है, तब उसके खाते ब्याज सहित निक्षिप्त संपूर्ण रकम परिवार के पात्र सदस्य/सदस्यों को, उस तरह से संदाय कर दी जाएगी जैसे अनुग्रह रकम संदत की जाती है।
 (3) किसी कर्मचारी की सेवा की कालावधि के दौरान, कोई भी कारण हो कर्मचारी की पेंशन निधि से कोई रकम आहरित किए जाने के लिए अनुज्ञात नहीं किया जाएगा।

नवीन पेंशन योजना की श्रेणी-2

11. श्रेणी-2 एक स्वैच्छिक जमा खाता होगा और सामान्य भविष्य निधि का एक अनुकल्प होगा जिसमें विश्वविद्यालय द्वारा कोई अभिदाय नहीं किया जाएगा। कर्मचारी इस खाते से आंशिक या सम्पूर्ण रकम आहरित करने के लिए स्वतंत्र होगा। श्रेणी-2 वैसे और तब कार्यन्वित की जाएगी जैसे और जब तथा राज्य शासन द्वारा विहित रीति में राज्य शासन कार्यन्वित करे।
12. ऐसी अवस्थिति की दशा में जो ऊपर समावेशित नहीं है, राज्य शासन के नियम लागू होंगे।

परिशिष्ट-एक

विश्वविद्यालय में प्रथम नियुक्ति पर कर्मचारी द्वारा भरा जाने वाला प्ररूप
(चार प्रतियों में भरा जाएगा)

1. कर्मचारी का नाम
(हिन्दी में)
(अंग्रेजी में)
2. पिता/पति का नाम
3. माता का नाम
4. जन्मतिथि
5. स्थाई पता
6. पत्राचार का पता
7. पदनाम जिस पर नियुक्ति हुई है
8. विभाग/अनुभाग जिसमें पदस्थ है
9. पदभार ग्रहण करने की तारीख
10. पे बेंड
11. ग्रेड-पे
12. मूल वेतन
13. पेंशन निधि में निक्षिप्त रकम के लिए नाम निर्देशन :-

अनुक्रमांक	नाम निर्देशिनी/नाम निर्देशितियों	आयु	पेंशन निधि का भाग	कर्मचारी से संबंध
	के नाम		प्रतिशत में	

दिनांक

कर्मचारी के हस्ताक्षर

(विश्वविद्यालय के कार्यालय द्वारा भरा जाए)

1. बैंक का नाम
2. कुलसचिव और कर्मचारी के संयुक्त नाम से पेंशन निधि का खाता क्रमांक
.....
3. कर्मचारी का सूचकांक.....
(जो उपरोक्त खाता क्रमांक के समान होगा)

.....
कुलसचिव

प्रतिलिपि :-

1. स्थापना शाखा
2. लेखा शाखा
3. विभाग /शाखा
4. संबंधित कर्मचारी

.....
कुलसचिव

परिशिष्ट – दो

पेंशन फंड का वार्षिक लेखा
वित्तीय वर्ष 20.....20

1. सूचकांक नम्बर
(जो बैंक में खाता क्रमांक के समान होगा)
2. कर्मचारी का नाम
3. पदनाम
4. विभाग/अनुभाग
5. विश्वविद्यालय में प्रथम नियुक्ति की तिथि
6. अधिवार्षिकी की तिथि

माह	वर्ष	मूलवेतन	ग्रेड-पे	महंगाई वेतन	महंगाई भत्ता	योग	कर्मचारी का कुल का 10 प्रतिशत अंशदान	विश्वविद्यालय अंशदान	योग	विशेष
अप्रैल	20.....									
मई	20.....									
जून	20.....									
जुलाई	20.....									
अगस्त	20.....									
सितम्बर	20.....									
अक्टूबर	20.....									
नवम्बर	20.....									
दिसम्बर	20.....									
जनवरी	20.....									
फरवरी	20.....									
मार्च	20.....									
बैंक में निक्षिप्त कुल रकम										
पिछला बाकी										
ब्याज										
वर्ष के अंत में बाकी रकम										

दिनांक

कुलसचिव

परिनियम- तैत्तीस**उपदान योजना**

1. **संक्षिप्त नाम.**— इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (उपदान योजना) परिनियम, 2013 है।
2. **परिभाषाएं .**— इस परिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हों, —
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. **आवेदन :**
 - (1) यह परिनियम विश्वविद्यालय के उन सभी कर्मचारियों, अधिकारियों और शिक्षकों को लागू होंगे जो परिनियम एक में दिए गए अनुसार कर्मचारियों की अभिदायी भविष्य निधि योजना के लिए पात्र हैं।
 - (2) विश्वविद्यालय में स्थाई संविलियन की दशा में प्रतिनियुक्ति पर विश्वविद्यालय पदग्रहण करने वाला कर्मचारी उसके स्थाई संविलियन की दिनांक से, या विश्वविद्यालय में उसके संविलियन से पूर्व कर्मचारी प्रतिनियुक्ति शर्तों और निबंधनों में अधिकथित शर्तों के अनुसार इस परिनियम के अधीन उपदान योजना की प्रसुविधा अनुज्ञात नहीं की जाएगी।
4. विश्वविद्यालय कर्मचारी उपदान निधि का सृजन और गठन (विश्वविद्यालय) उपदान संवितरण पर व्यय की पूर्ति के लिए विश्वविद्यालय भारतीय जीवन बीमा निगम की समूह उपदान योजना चुनेगी।
इस प्रकार सृजित उपदान निधि विश्वविद्यालय द्वारा भारतीय जीवन बीमा निगम को अभिदाय निम्नलिखित रकम से गठित होगी।
 1. कुल उपदान का वर्तमान मूल्य।
 2. प्रारंभिक अभिदाय।
 3. वार्षिक अभिदाय की रकम।
 4. एक वर्षीय नवीकरणीय अवधि बीमा (ओ वाई आर. टी. ए.) प्रीमियम की रकम।
 5. जोखिम प्रीमियम पर 12.24 प्रतिशत की दर से सेवा कर।
5. **निरंतर सेवा :**
कर्मचारी पांच वर्ष की निरंतर सेवा के पश्चात् उपदान के लिए पात्र होगा। पांच वर्ष की निरंतर सेवा की शर्तें वहां आवश्यक नहीं होगी जहां किसी कर्मचारी के नियोजन का पर्यावसान मृत्यु या निःशक्तता के कारण हुआ हो।
6. **उपदान का संदाय :**
तीन घटनाओं में किसी के घटित होने पर पांच वर्ष से अधिक निरंतर सेवा करने के पश्चात् उसके नियोजन के पर्यावसान पर कर्मचारी को उपदान का संदाय किया जाना चाहिए:—
 - (क) कर्मचारी का अपनी अधिवार्षिकी आयु पर पहुंचने पर या
 - (ख) उसकी सेवानिवृत्ति या त्याग पत्र पर या
 - (ग) दुर्घटना या बीमारी के कारण उसकी मृत्यु या निःशक्तता पर तीसरी घटना की दशा में अर्हकारी पांच वर्ष की निरंतर सेवा आवश्यक नहीं है।
7. **उपदान किसे संदेय है :**
उपदान उसकी अधिवार्षिकी या सेवानिवृत्ति या त्यागपत्र पर कर्मचारी को संदेय है। कर्मचारी की मृत्यु की दशा में उसको संदेय उपदान, उसके नाम निर्देशिती को संदाय की जाएगी।
या यदि नामनिर्देशिती नहीं है तो उसके उत्तराधिकारियों को, और जहां नामनिर्देशिती या उत्तराधिकारी अव्यस्क है तो ऐसे अव्यस्क का अंश उसके नियंत्रणकर्ता के पास जमा कर दिया जावेगा, जो उस अव्यस्क के लाभ के लिए जकब तक वह अव्यस्क वयस्कता को प्राप्त करे, बैंक में या अन्य वित्तीय संस्थाओं में, जैसा कि विहित किया जाए, वियोजित करेगा।

8. नामनिर्देशन :

उपादान के भुगतान अधीन नामनिर्देशन आने वाले प्रत्येक कर्मचारी को वैधानिक अधिकार है कि इस परिनियम के प्रावधानानुसार उपादान का भुगतान हो। प्रत्येक कर्मचारी, जिसने एक वर्ष का सेवाकाल पूर्ण कर लिया हो नामांकन करे ताकि मृत्यु की दशा में उसके नामनिर्देशिनी को उपादान का भुगतान हो, अथवा उसके उत्तराधिकारियों का नहीं है तो इस परिनियम के अधीन, कर्मचारी एक या अधिक को उनके बीच बटवारा करता है तो उन्हें उपादान राशि का भुगतान होगा।

यदि नामनिर्देशन करते समय, कर्मचारी का एक परिवार है, तब उसके परिवार के एक या अधिक सदस्यों को नामनिर्देशित करेगा, और कर्मचारी द्वारा किसी ऐसे व्यक्ति के पक्ष में किया जाने वाला नामनिर्देशन जो उसके परिवार का सदस्य नहीं है होगा।

9. परिवार :

किसी कर्मचारी के संबंध में परिवार में सम्मिलित होंगे -

- (1) पुरुष कर्मचारी की दशा में, स्वयं उसकी पत्नि, उसके बच्चे चाहे विवाहित हों या अविवाहित, उसके ऊपर निर्भर माता-पिता और विधवा और उसके पूर्व मृत पुत्र के बच्चे, यदि कोई हैं, और
- (2) महिला कर्मचारी की दशा में स्वयं उसका पति, उसके बच्चे चाहे विवाहित हों या अविवाहित, उसके ऊपर निर्भर माता-पिता और उसके पति के ऊपर निर्भर माता-पिता और उसके पूर्व मृतक का विधवा और बच्चे यदि कोई हो,

10. उपादान गणना का तरीका :

प्रत्येक पूर्ण वर्ष के सेवा के लिए 15 दिन की अंतिम आहरित मजदूरी की दर से उपादान राशि की गणना की जाएगी अधिकतम रुपये दस लाख होगी

11. उपादान गणना का सूत्र

उपादान = $15/26 \times$ सेवाकाल के वर्ष \times अंतिम आहरित वेतन (मूलवेतन+मंहगाई भत्ता),

12. उपादान भुगतान हेतु आवेदन :

कोई कर्मचारी जो उपादान योजना परिनियम 2012 के अधीन उपादान के भुगतान हेतु पात्र है उसके द्वारा लिखित या कोई में प्राधिकृत कोई व्यक्ति जिस तिथि को उपादान कर्मचारी को देय है, उपादान की उस तिथि से 30 दिन के भीतर आवेदन करेगा। जहां कर्मचारी को सेवा निवृत्ति आयु की तिथि की जानकारी है, तब कर्मचारी, नियोक्ता को सेवानिवृत्ति आयु या सेवा निवृत्ति तिथि के 30 दिन पहले आवेदन कर सकता है। नियोक्ता को या तो व्यक्तिगत रूप से या पंजीकृत डॉक पावती सहित, उपादान की देय तिथि के 30 दिन के भीतर आवेदन प्रस्तुत करेगा।

13. प्रतिनिधि द्वारा आवेदन :

किसी कर्मचारी का नामनिर्देशिनी जो कि उपादान भुगतान हेतु पात्र है, साधारण कागज में वांछित जानकारी के साथ उपादान भुगतान की देय तिथि से 30 दिन के भीतर, कुलसचिव को आवेदन करेगा। कुलसचिव आवश्यक समझे तो उससे अन्य जानकारी भी प्राप्त कर सकता है। कर्मचारी का वैधानिक उत्तराधिकारी जो कि उपादान भुगतान हेतु पात्र है, सक्षम न्यायालय द्वार जारी उत्तराधिकारी प्रमाण पत्र के साथ, उपादान के भुगतान की तिथि के एक वर्ष के भीतर आवेदन करेगा।

14. कुलसचिव की बाध्यता :

चाहे कर्मचारी मांगे या नहीं कुलसचिव पर यह एक स्वतंत्र बाध्यता होगी कि उपादान की देय राशि का भुगतान, कर्मचारी को किया जावे, कुलसचिव जैसे ही उपादान, कर्मचारी को देय हो, उपादान की राशि का निर्धारण करेगा और जिस व्यक्ति को उपादान का भुगतान होना है, को लिखित में सूचना देगा।

15. विवादों का न्यायनिर्णयन :

- (1) इस परिनियम के अधीन यदि कर्मचारी को देय उपादान राशि की पात्रता हेतु किसी प्रकार का विवाद होता है, कर्मचारी या उपादान प्राप्त करने हेतु पात्र व्यक्ति, कुलसचिव को आवेदन कर सकता है। कुलसचिव जांच करने के पश्चात् और पक्षों को मामले के उचित सुनवाई के अवसर प्रदान करने के पश्चात् निश्चित करेगा और कर्मचारी को देय उपादान के भुगतान का आदेश पारित करेगा। कुलसचिव के आदेश से पीड़ित व्यक्ति, आदेश प्राप्ति के दिनांक से साठ दिन के भीतर कुलपति को अपील दायर करेगा।

परंतु कुलपति का यह समाधान हो गया है कि आवेदक पर्याप्त कारणों से साठ दिन की उक्त कालावधि के भीतर अपील प्रस्तुत करने से रह गया था, तो वह उक्त कालावधि को और अतिरिक्त साठ दिन की कालावधि के लिए बढ़ा देगा।

- (2) कुलपति पक्षकारों को समुचित सुनवाई का अवसर प्रदान करने के पश्चात् कुलसचिव के निर्णय को सुनिश्चित, परिवर्तित या उलट सकेगा।

परिनियम – चौतीस**विश्वविद्यालयीन कर्मचारियों की सेवा की शर्तें**

1. **संक्षिप्त नाम .-** इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विश्वविद्यालय कर्मचारियों हेतु सेवा की शर्तें) परिनियम, 2013 है।
2. **परिभाषा .-** इस परिनियम में, जब तक संदर्भ से अन्यथा अपेक्षित ना हो, -
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
- अ. **भाग-1 पदों का वर्गीकरण, नियुक्ति और कार्यकाल**
3. (1) विश्वविद्यालय में पद उस श्रेणी के तथा उनके वेतनमान राज्य शासन द्वारा निर्धारित और विश्वविद्यालय की कार्य परिषद् द्वारा ग्राह्य किए गए अनुसार होगा
 (2) आहरित वेतनमान पर मंहगाई भत्ते की दरें वहीं होंगी जो समय-समय पर राज्य शासन द्वारा अपने कर्मचारियों को स्वीकृत एवं कार्य परिषद् अंगीकृत की जाएं।
4. (1) विश्वविद्यालय का पूर्णकालिक कर्मचारी, विश्वविद्यालय के अधीन रहेगा और अतिरिक्त पारिश्रामिक की मांग किये बिना उचित अधिकारी द्वारा किसी भी रीति से नियोजित किया जाएगा।
 परंतु ऐसी दरें जिन पर मंहगाई भत्ते का संदाय किया जाना है, राज्य सरकार के पूर्व अनुमोदन के बिना कार्यपरिषद् द्वारा स्वीकृत नहीं की जाएगी।
 (2) कार्यपरिषद् किसी निजी व्यक्ति, निकाय या शासन के लिए किसी विनिर्दिष्ट सेवा का निष्पादन करने के लिए तथा उसके लिए शुल्क के रूप में पारिश्रमिक प्राप्त करने के लिए किसी विश्वविद्यालय कर्मचारी को अनुज्ञा प्रदान कर सकेगी, यदि उसका यह समाधान हो जाता है कि वह अपने पदीय कर्तव्यों या उत्तरदायित्वों को हानि पहुंचाए बिना यह कर सकता है :
 परंतु यह कि विश्वविद्यालय के कर्मचारी को इस प्रकार प्राप्त शुल्क की राशि का अपेक्षित प्रतिशत विश्वविद्यालय की निधि में जमा करना आवश्यक होगा जैसा कि राज्य शासन के नियमों में विहित है सिवाय मध्यप्रदेश मूल नियम के नियम 47 के अनुक्रमांक 2 के नीचे दिए गए अपवाद 4 के अंतर्गत आने वाले मामलों के
 (3) नियुक्ति प्राधिकारी, विश्वविद्यालय के किसी कर्मचारी किए गए उस कार्य के लिए जो कि आकस्मिक प्रकृति का है, पारिश्रमिक के रूप में मानदेय प्रदत्त कर सकेगा या प्राप्त करने के लिए अनुज्ञा दे सकेगा परंतु नियुक्ति प्राधिकारी की पूर्व सहमति अभिप्राप्त की गई है तथा पारिश्रमिक राशि पहले से ही तय की जा चुकी है।
 (4) कुलपति/कार्यपरिषद्, शक्तियों के प्रत्यायोजन के अनुसार किसी विश्वविद्यालय अधिकारी/अध्यापक/कर्मचारी को निजी संस्था/निकाय या शासन के लिए विनिर्दिष्ट सेवा का निष्पादन करने के लिए प्रतिनियुक्ति पर नियुक्त कर सकेगा। प्रतिनियुक्ति के निबंधन तथा शर्तें राज्य सरकार के समय-समय पर लागू नियमों के अनुसार होंगी।
5. शाखा या विभाग या संस्था जिसमें अधीन कर्मचारी कार्यकर रहा है, कुलपति द्वारा विहित प्ररूप में कुलसचिव को भेजेगा :-
 (क) 31 मार्च को पूर्ण हो रहे पूर्ववर्ती वर्ष के दौरान कर्मचारी के कार्य तथा आचरण पर एक रिपोर्ट प्रतिवर्ष 31 मई के पूर्व।
 (ख) विश्वविद्यालय के किसी कर्मचारी की परिवीक्षा अवधि की समाप्ति की तारीख से कम से कम एक माह पूर्व, सेवा में स्थाई करने के लिए कर्मचारी की उपयुक्तता या अन्यथा के बाटे में कथन करते हुए, किसी स्थायी पद पर नियुक्त कर्मचारी के कार्य तथा आचरण के संबंध में एक रिपोर्ट।
6. कोई अस्थायी नियुक्ति, किसी भी पक्षकार द्वारा, किसी अन्य को बिना कोई कारण बताए एक माह की सूचना पर या उसके बदले में संबंधित कर्मचारी की एक माह वेतन पर समाप्त की जा सकेगी।
7. किसी स्थाई पद पर, पुष्टिकरण हो जाने पर, विश्वविद्यालय का कोई कर्मचारी उस पद पर धारणाधिकार अर्जित करेगा अधिष्ठाता का कोई कर्मचारी, किसी अन्य पद पर अधिष्ठायी रूप से नियुक्त किया गया है तो वह द्वितीय पद पर धारणाधिकार अर्जित करेगा तथा पहले वाले पद पर कोई धारणाधिकार नहीं रह जाएगा।

8. किसी स्थायी कर्मचारी को, त्यागपत्र देने की इच्छा होने की दशा में, तीन माह की सूचना देना आवश्यक होगा या वह ऐसी सूचना के बदले में विश्वविद्यालय को तीन माह वेतन का भुगतान करेगा। यदि विश्वविद्यालय किसी स्थायी कर्मचारी की सेवाएं समाप्त करती है तो उस तारीख से जिस पर वह कार्यमुक्त किया जाता है इस आध्य की एक सूचना तीन माह पूर्व उसे दी जाएगी। ऐसी सूचना नहीं दिए जाने की स्थिति में विश्वविद्यालय उसे तीन माह वेतन का भुगतान करेगी। यदि कर्मचारी सेवा से हटाया गया है, पदच्युत या अनिवार्य रूप से सेवानिवृत्त किया गया है तो ऐसी सूचना आवश्यक नहीं होगी।
- परंतु जहां कोई स्थायी कर्मचारी अन्यत्र किसी नियुक्ति के लिए उसके द्वारा तीन माह की सूचना देने के पश्चात् या ऐसी सूचना के बदले में तीन माह वेतन का भुगतान करने के पश्चात् कार्यमुक्त किया जाता है तो विश्वविद्यालय में, उसके कार्यमुक्त होने की तारीख से दो वर्ष की कालावधि के लिए या अन्य पद पर उसके स्थायीकरण की तारीख तक, जो भी पूर्वतर हो, उसका धारणाधिकार रहेगा।
9. (क) विश्वविद्यालय के किसी कर्मचारी की सेवाएं निम्नलिखित में से किसी भी आधार पर समाप्त की जा सकेंगी :-
- (एक) जानबूझकर कर्तव्य की उपेक्षा
 - (दो) कदाचरण
 - (तीन) शारीरिक या मानसिक अक्षमता
 - (चार) धारित पद के समाप्त हो जाने पर
 - (पांच) नैतिक अद्यमता के किसी अपराध में संलिप्त होने पर न्यायालय द्वारा दोषसिद्ध होना
- (ख) विश्वविद्यालय के अध्यापन विभाग में अध्यापन पद पर रखने वाले व्यक्तियों में निम्नलिखित कमियां पाए जाने पर कदाचरण माना जाएगा :
- (एक) अपने शैक्षणिक कर्तव्य जैसे व्याख्यान प्रदर्शन, निर्धारण, मार्गदर्शन, निरीक्षण आदि के निर्वहन में असफल होना।
 - (दो) छात्रों के मूल्यांकन में घोर पक्षपात जानबूझकर अधिक अंक देना/ कम अंक देना या किसी भी आधार पर तंग करने का प्रयास करना।
 - (तीन) छात्रों को अन्य छात्रों सहपाठियों के विरुद्ध या विश्वविद्यालय प्रशासन के विरुद्ध भड़काना।
 - (चार) जाति, पंच, धर्म, वर्ण या उसके सहपाठियों के साथ उसके संबंधों को के बारे में लिंगभेद संबंधी प्रश्न उठाना तथा उपरोक्त विचारों का उसकी भावी प्रगति के लिए उपयोग करने का प्रयास करना।
 - (पांच) विश्वविद्यालय के उपयुक्त प्रशासनिक तथा शैक्षणिक निकायों/या कार्य समितियों द्वारा लिए गए विनिश्चयों को मानने से इंकार करना। यह उनकी नीतियों या विनिश्चयों से उसके मतांतरो को अभिव्यक्त करने अधिकारों का निषेध नहीं होगा।
10. कोई भी कर्मचारी विश्वविद्यालय की सेवा छोड़ने से पूर्व, चाहे वह अस्थायी रूप से या परीक्षा पर या स्थायी रूप से नियुक्त किया गया हो, प्रभार प्राप्त करने के लिए सम्यक रूप से प्राधिकृत किसी कर्मचारी को अपने पद का प्रभार देगा तथा उसको उपयोग के लिए दी गयी समस्त वस्तुएं विश्वविद्यालय को वापस करेगा तथा उसके आवासीय भवन, यदि कोई हो, से संबंधित समस्त देश प्रभारों, जिसमें नगर निगम कर, जल तथा विद्युत प्रभार भी सम्मिलित है, का भुगतान करेगा। यदि वह सेवा करने में असफल रहता है तो इस शाला या संस्था जिसका वह कर्मचारी है, प्रमुख को उस पद शोध राशि की उसे देय वेतन के एरियर्स या विश्वविद्यालय हाटा उसे दिन जाने वाली भविष्य निधि से वसूली करने का अधिकारी होगा।
11. विश्वविद्यालय कर्मचारी परिनियमों के उपबंधों के अनुसार नई पेंशन योजना का अंशदायी होगा।
12. विश्वविद्यालय का कोई कर्मचारी अपने पद का वेतन तथा भत्ते उस तारीख से जिसको कि वह पद के कर्तव्यों को धारण करता है, आधीत करना प्रारंभ करेगा तथा जैसे ही वह अपने उन कर्तव्यों के निर्वहन का उनमोचन करता है उसका आहरण समाप्त हो जाएगा।
- (1) विश्वविद्यालय के किसी भी कर्मचारी को निरंतर पांच वर्ष की कालावधि से अनधिक के लिए किसी भी प्रकार का अवकाश मंजूर नहीं किया जाएगा;
 - (2) जहां कोई विश्वविद्यालय कर्मचारी निरंतर पांच वर्ष की कालावधि में अवकाश पर रहने के पश्चात् अपने कर्तव्य पर उपस्थित नहीं होता है तो यह समझा जाएगा कि उसने अपना पद त्याग दिया है तथा तदनुसार वह विश्वविद्यालय का कर्मचारी नहीं रह जाएगा;
- परंतु आपवादिक परिस्थितियों को दृष्टि में रखते हुए, किसी विशेष प्रकरण में, कार्यपरिषद्, अन्यथा अवधारण कर सकेंगी।

- (3) किसी विश्वविद्यालय कर्मचारी के वेतन उस समय मान वेतन में, जिसमें वह नियुक्त हुआ है, मध्यप्रदेश शासन को लागू मूलभूत नियमों द्वारा विनियमित किया जाएगा। वार्षिक वेतनवृद्धि जब तक कि रोकी न गई हो, सामान्य अनुक्रम में आहरित की जाएगी।

ख. भाग-दो : आवासीय सुविधा :

13. (1) कार्यपरिषद्, ऐसे भवनों या उनके हिस्सों के आवंटन को शासित करने हेतु अधिकथित सिद्धांतों के अनुसार नियम बना सकेगी जो विश्वविद्यालय के प्रशासनिक नियंत्रण के अधीन कार्य करने वाले कर्मचारियों के आवासीय प्रयोजन हेतु उपलब्ध कराए जाएं।
- (2) जब विश्वविद्यालयीन कर्मचारियों को असज्जित विश्वविद्यालय आवास उपलब्ध कराए गए हों, तो वे राज्य सरकार द्वारा अपने कर्मचारियों को आवास की आकृति के अनुसार यथा निर्धारित दरों पर मासिक किराए का भुगतान करेंगे।
- (3) कर्मचारी, जिनको विश्वविद्यालयीन आवास उपलब्ध नहीं कराए गए हैं, राज्य सरकार द्वारा अपने कर्मचारियों को ऐसे भत्ते के अनुदान के लिए अधिकथित शर्तों के अध्वधीन रहते हुए, राज्य सरकार द्वारा स्वीकृत गृह भाड़ा भत्ते के पात्र होंगे।

ग. भाग तीन : अवकाश :

14. विश्वविद्यालयीन कर्मचारियों के लिए सभी प्रकार के अवकाश जैसे अर्जित अवकाश, अर्धवेतनिक अवकाश, असाधारण अवकाश, विशेष निःशक्त अवकाश, अध्ययन अवकाश, प्रसूति अवकाश, चिकित्सा अवकाश इत्यादि के लिए नियम, समय-समय पर, राज्य सरकार के कर्मचारियों को लागू किए गए अनुसार ही होंगे।

15. (एक) आकस्मिक अवकाश :

1. आकस्मिक अवकाश के लिए अधिकारों की तरह दावा नहीं किया जा सकता है और इसकी स्वीकृति हमेशा सेवा की अत्यावश्यकताओं के अध्वधीन तथा एक कैलेंडर वर्ष में अधिकतम 13 दिन के अध्वधीन की जाएगी।
2. आकस्मिक अवकाश, विश्वविद्यालय के विवेकाधिकार पर है कि जब कभी अवसर आये स्वीकृत किए जाएं।

(दो) विशेष आकस्मिक अवकाश

1. सिविल या आपराधिक मामला जिसमें उसका व्यक्तिगत हित निहित नहीं है, न्यायालय में गवाही हेतु किसी कर्मचारी को, जूरियों में से एक व्यक्ति के रूप में, या कर निर्धारक या साक्ष्य देने, सम्मन जारी होता है, तो यह अवकाश स्वीकृत किया जावेगा। यह स्वीकृत अवकाश कथित कार्य की अवधि में पूर्ण करने हेतु पर्याप्त होगा।
2. यह उन कर्मचारियों को भी प्रदान किया जाएगा जो अन्य संस्थाओं के पुस्तकालय संदर्भ और सभाओं या विश्वविद्यालय के हित में शिक्षा और व्यवसायिक शासन/विश्वविद्यालय अनुदान आयोग/व्याख्या और परीक्षा कार्य हेतु नियुक्त सम्मिलित समितियों, या ऐसे अन्य कार्य कार्यपरिषद् द्वारा विनिर्दिष्ट किए जाएं।
3. ऊपर खण्ड (दो) के अधीन विशेष आकस्मिक अवकाश केवल गैरपारिश्रमिक कार्य के लिए लागू होगा और एक कैलेंडर वर्ष में 15 दिन से अधिक नहीं होगा :

परन्तु विश्वविद्यालयों/शासन/विश्वविद्यालय अनुदान आयोग द्वारा नियुक्त समितियों के गैर-पारिश्रमिक कार्य हेतु कुलपति अपने विवेक से, पुनः एक कैलेंडर वर्ष में 15 दिन से अनाधिक अवधि के लिए विशेष आकस्मिक अवकाश स्वीकृत कर सकेगा।

- (तीन) विभिन्न सांस्कृतिक मेला/राष्ट्रीय व्याख्या/मेला कार्यक्रम इत्यादि और भारत सरकार/राज्य सरकार और अन्य कानूनी निकाय द्वारा प्रतिनिधि मण्डलों के सदस्यों के रूप में प्रायोजित या भारत या विदेश में विशेष व्याख्या देने में विश्वविद्यालय से अनुपस्थिति की अवधि की गणना कर्तव्यों में होगी।

16. नीचे विहित सीमा तक, प्रत्येक के सामने उल्लिखित प्राधिकारी द्वारा, परन्तु किसी भी स्थिति में अर्जित कालावधि से अधिक का अवकाश स्वीकृत नहीं होगा:-

अवकाश का प्रकार	कर्मचारी की श्रेणी	स्वीकृति प्राधिकारी	शक्तियों की सीमा
(क) आकस्मिक अवकाश	(एक) विभाग प्रमुखों और कुलसचिव उपकुलसचिव, संबंधित अनुभागों के सहायक कुलसचिव	कुलपति कुलसचिव	पूर्ण पूर्ण
(ख) विशेष आकस्मिक अवकाश	(दो) विभागीय कर्मचारी (विभाग प्रमुखों के से भिन्न अतिरिक्त शिक्षक, प्रयोगशाला, लिपिकवर्गीय एवं चतुर्थ श्रेणी कर्मचारिवृद्ध	कुलसचिव	पूर्ण
(ग) आकस्मिक या विशेष आकस्मिक अवकाश से भिन्न अवकाश	1. कुलपति से भिन्न समस्त कर्मचारी (एक) कुलपति	कुलपति कुलाधिपति	पूर्ण पूर्ण
	(दो) विभाग प्रमुखों और कुलसचिव (तीन) समस्त प्रथमश्रेणी एवं द्वितीय श्रेणी के कर्मचारी	कुलपति कार्यपरिषद् कुलपति कार्यपरिषद्	2 माह तक पूर्ण 3 माह तक पूर्ण
	(चार) विश्वविद्यालय के श्रेणी 3 एवं श्रेणी 4 के कर्मचारिवृद्ध	कुलसचिव कुलपति	एक माह तक पूर्ण

17. अर्जित अवकाश के समर्पण एवं नगदीकरण का लाभ, समय-समय पर राज्य शासन के कर्मचारियों को लागू नियमों के अनुसार विश्वविद्यालय कर्मचारियों को अनुज्ञेय होंगे।

घ. भाग चार : निलंबन, शास्ति और अनुशासनात्मक प्राधिकारी :

18. राज्य सरकार द्वारा समय-समय पर अपने कर्मचारियों के लिए विहित किए गए नियम और निर्देश विश्वविद्यालय के कर्मचारियों/शिक्षकों को भी लागू होंगे।
19. (1) निलंबन के अधीन नियुक्ति प्राधिकारी किसी कर्मचारी को आदेश जारी कर सकेगा:-
- (क) जब उसके विरुद्ध अनुशासनात्मक कार्यवाही अनुध्यात या लंबित हो;
- (ख) जहां उसके विरुद्ध किसी दांडिक अपराध का प्रकरण अन्वेषण, जांच या विचारण के अधीन हो।
- (2) नियुक्ति प्राधिकारी के आदेश से किसी कर्मचारी को निलंबित कर दिया गया समझा जाएगा :
- (क) उसके बंदी होने की तारीख से, यदि उसे या तो आपराधिक अभियोजन या अन्यथा 48 घन्टे से अधिक अवधि के लिए बंदी अभिरक्षा में रखा जाए;
- (ख) उसको अपराध की घटना की तारीख से, यदि कोई अपराध होने की घटना में, 48 घन्टे से अधिक के लिए बंदीगृह की सजा होती है, और इस कृत्य के कारण सेवोन्मुक्त या हटाना या अनिवार्य सेवानिवृत्ति नहीं होती है।
- (3) निलंबन आदेश, जब तक उसमें परिवर्तन नहीं किया जाता या नियुक्ति प्राधिकारी द्वारा निरस्त नहीं कर दिया जाता, निरन्तर प्रभावी माना जाएगा।
20. (1) नियुक्ति प्राधिकारी अच्छे एवं समुचित कारणों के लिए किसी कर्मचारी पर केवल निम्नलिखित शास्तियां अधिरोपित कर सकेगा :-
- (क) निंदा करना;
- (ख) उपेक्षा या आदेशों की अवहेलना के कारण उसके द्वारा विश्वविद्यालय को हुई किसी आर्थिक हानि के सम्पूर्ण या हिस्से का उसके वेतन से वसूली;
- (ग) वेतन वृद्धियां रोकना;
- (घ) निम्नतर समय वेतनमान श्रेणी या पद घटाना;
- (ङ.) अनिवार्य सेवा निवृत्ति
- (च) सेवा से बर्खास्तगी;
- (छ) सेवाएं समाप्त करना जिसमें विश्वविद्यालय में भविष्य में नियोजन हेतु साधारणतः निरहर्ता होगी।
- उपरोक्त के होते हुए, चतुर्थ श्रेणी कर्मचारी द्वारा कोई छोटी असावधानी, समय पर ना आना, आलस्य या अल्प प्रकृति के समान कदाचरण करता है तो रु पचास से अनाधिक जुर्माना की शास्ति लगाई जाएगी :

परन्तु उपर दी गई उपकंडिका (1) के खण्ड (क) से (ग) में की गई गणना के अनुसार यदि लघु शास्तियों को लागू करना आशयित हो तो श्रेणी तीन और श्रेणी चार के कर्मचारियों के संबंध में कुलसचिव तथा अध्यापन कर्मचारिवृंद को सम्मिलित करते हुए अन्य कर्मचारियों के संबंध में कुलपति अनुशासनात्मक कार्यवाहियां संस्थित करेगा तथा समुचित आदेश पारित करेगा।

- (2) विश्वविद्यालय के कर्मचारी के विरुद्ध नियुक्ति प्राधिकारी, अनुशासनात्मक कार्यवाही संस्थित करेगा।
21. (1) ऊपर दी गई उपकंडिका (1) के (घ) से (छ) तक में विनिर्दिष्ट शास्तियों में से कोई शास्ति लगाने के लिए कोई आदेश अधिरोपित नहीं होने पर, जुर्माना लगाया जाने के अतिरिक्त राज्य शासन द्वारा शासकीय कर्मचारियों का शास्ति लगाने की विहित प्रक्रिया के अनुसार और संबंधित कर्मचारी के विरुद्ध जांच के आदेश नियुक्ति प्राधिकारी द्वारा जारी करते समय प्रभावशील होंगे।
- (2) ऊपर दी गई उपकंडिका (1) के खण्ड (क) से (ग) तक में विनिर्दिष्ट शास्तियां अधिरोपित करने के लिए राज्य शासन के नियमों में यथाविहित, समरी प्रक्रिया का पालन किया जाएगा।
22. (1) जहां कुलसचिव द्वारा किसी कर्मचारी पर कोई शास्ति अधिरोपित की जाती है वहां संबंधित कर्मचारी जिस तारीख को अपीलकर्ता को आदेश की प्रति मिलेगी उस तारीख से तीस दिन के भीतर कुलपति को अपील कर सकेगा।
- (2) जहां कुलपति द्वारा किसी कर्मचारी पर कोई शास्ति अधिरोपित की जाती है वहां संबंधित कर्मचारी, जिस तारीख को अपीलकर्ता को आदेश की प्रति मिलेगी, उस तारीख से तीस दिन के भीतर कार्यपरिषद् को अपील कर सकेगा।
- (3) जहां कार्यपरिषद् द्वारा किसी कर्मचारी पर कोई शास्ति अधिरोपित की जाती है, वह जिस तारीख को आदेश की प्रति मिलेगी, उस तारीख से तीस दिन के भीतर कुलाधिपति को अपील कर सकेगा।
- (4) प्राधिकारी जिसके पास अपील अवस्थित है को अपील प्रस्तुत की जाएगी, अपीलकर्ता द्वारा एक प्रति उस प्राधिकारी को प्रेषित की जाएगी जिसके आदेश के विरुद्ध अपील की गई। इसमें समस्त बयान सामग्री और तर्क जिनपर अपील कर्ता विश्वास करता है, समाविष्ट होंगे। इसमें किसी प्रकार का असम्मानजनक या अशोभनीय भाषा का समावेश ना होते हुए स्वयं में पूर्ण होना चाहिए।

परिनियम क्रमांक-पैंतीस

विद्वत वृत्ति

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विद्वत वृत्ति) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. निम्नलिखित इस अधिनियम की धारा 21 की उपधारा (1) के खण्ड (ग्यारह) के प्रयोजनों के लिए विद्वत वृत्ति होगी —

(एक)	भेषज संकाय ;
(दो)	दंत चिकित्सा संकाय ;
(तीन)	आयुर्वेद तथा यूनानी संकाय ;
(चार)	होम्योपैथी, योगा, सिद्धा संकाय ;
(पाँच)	नर्सिंग विज्ञान संकाय;
(छह)	सहबद्ध स्वास्थ्य सेवा संकाय ;
(सात)	प्रख्यात वैज्ञानिक, विद्वान तथा पढ़े लिखे व्यक्ति

परिनियम क्रमांक-छत्तीस**विश्वविद्यालय अध्यापन विभागों की स्थापना तथा शिक्षण पदों का संस्थापित किया जाना**

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (विश्वविद्यालय अध्यापन विभागों की स्थापना तथा शिक्षण पदों का संस्थापित किया जाना) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो;
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. विश्वविद्यालय अध्यापन विभागों को विश्वविद्यालय द्वारा प्रशासित तथा प्रबंधित किया जाएगा। विश्वविद्यालय अध्यापन विभाग, स्वास्थ्य विज्ञान शिक्षा तथा अनुसंधान तथा उत्कृष्टता के केन्द्र होंगे।
4. किसी एक विशिष्ट विषय में विश्वविद्यालय अध्यापन विभाग की स्थापना तथा समाप्ति निम्नलिखित प्रक्रिया के अनुसार की जाएगी।
 - (एक) विश्वविद्यालय अध्यापन विभाग समय-समय पर बनाए गए परिनियमों तथा अध्यादेशों में उल्लिखित विषयों में प्रारंभ किया जा सकेगा।
 - (दो) विश्वविद्यालय अध्यापन विभाग को खोलने का प्रस्ताव, विद्या परिषद् द्वारा किया जाएगा।
 - (तीन) विद्या परिषद्, विश्वविद्यालय अध्यापन विभाग में शैक्षणिक पदों की संस्थापना हेतु भी प्रस्ताव बनाएगी।
 - (चार) विश्वविद्यालय अध्यापन विभाग को खोलने हेतु विद्या परिषद् द्वारा बनाए गए प्रस्ताव तथा विश्वविद्यालय शिक्षा विभाग में संस्थान के शिक्षा पदों हेतु कार्य परिषद् के समक्ष प्रस्तुत किये जाएंगे।
 - (पाँच) विश्वविद्यालय अध्यापन विभाग कार्य परिषद् के अनुमोदन के पश्चात् खोला जाएगा तथा शैक्षणिक पदों को संस्थित किया जाएगा।

परिनियम क्रमांक-सैंतीस**शिकायत समिति**

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (शिकायत समिति) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. विश्वविद्यालय, महाविद्यालय, संस्थानों और मान्यताप्राप्त संस्थानों के शिक्षकों तथा अन्य कर्मचारियों की शिकायतों पर कार्रवाई करने तथा सुनने तथा यथा शक्य छह मास के भीतर निपटारा करने के लिए एक शिकायत समिति होगी तथा समिति कार्य परिषद् को प्रतिवेदन देगी।
4. शिकायत समिति के लिए यह विधिपूर्ण होगा कि वह शिकायतों को प्राप्त करें तथा उस पर विचारण करे तथा विद्या परिषद् को ऐसी कार्यवाही करने हेतु रिपोर्ट करे जैसा वह उचित समझे तथा ऐसी रिपोर्टों पर विद्या परिषद् का विनिश्चय अंतिम होगा।
5. शिकायत समिति में निम्नलिखित सदस्य होंगे, अर्थात् :-
 - (1) कुलपति — अध्यक्ष ;
 - (2) कार्य परिषद् द्वारा उनमें से ही नाम निर्दिष्ट कार्य परिषद् के चार सदस्य, — सदस्य
 - (3) कुलसचिव — सदस्य-सचिव
6. कुलसचिव के पास मत देने का अधिकार नहीं होगा।

परिनियम क्रमांक— अड़तीस**क्रय समिति**

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (क्रय समिति) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. विश्वविद्यालयों की ऐसी मदों के संबंध में जहाँ ऐसी प्रत्येक मद की कीमत एक बार में रूपए 1 लाख से अधिक है, के समस्त क्रयों से संबंधित समस्त मामलों में संव्यवहार करने हेतु एक क्रय समिति होगी।
4. समिति निम्नलिखित सदस्यों से मिलकर बनेगी, अर्थात् :—
 - (1) कुलपति द्वारा नाम निर्देशित विश्वविद्यालय संस्थाओं या विभागों या सरकारी संबद्ध महाविद्यालयों के तीन प्रमुख ;
 - (2) कार्य परिषद् द्वारा उसके सदस्यों में से नामनिर्देशित दो सदस्य ;
 - (3) कुलसचिव ;
 - (4) वित्त तथा लेखा नियंत्रक अधिकारी ; अध्यक्ष का नाम निर्देशन समिति के सदस्यों में से कुलपति द्वारा किया जाएगा।
5. सामान्यतया वित्त तथा लेखा अधिकारी, क्रय समिति के सचिव के रूप में कार्य करेंगे। उस कालावधि के दौरान जबकि कोई वित्त तथा लेखा नियंत्रक/अधिकारी न हो या नियंत्रक/अधिकारी की अनुपस्थिति के दौरान, कुलसचिव समिति के सचिव के रूप में कार्य करेगा।
6. क्रय समिति उन विश्वविद्यालय, संस्थाओं या विभागों के प्रमुखों को आमंत्रित करेगी जिनके लिये क्रय किया जाना है;
7. पूर्व पदेन सदस्यों के अतिरिक्त समिति के सभी सदस्य दो वर्ष की कालावधि के लिए पद धारण करेंगे ;
8. समिति की शक्तियाँ तथा कर्तव्य तथा इसकी बैठकों की प्रक्रिया ऐसी होगी जैसी कि समय समय पर विनियमों द्वारा विहित की जाए।

परिनियम क्रमांक— उनतालीस**पुस्तकालय समिति**

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (पुस्तकालय समिति) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) “परिनियम” से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. विश्वविद्यालय के पुस्तकालयों तथा पुस्तकालय सेवा को प्रशासित करने, व्यवस्थित तथा संधारित करने हेतु एक पुस्तकालय समिति होगी। इसमें निम्नलिखित सदस्य होंगे, अर्थात् :—
 - (1) कुलपति — अध्यक्ष ;
 - (2) कुलपति द्वारा नामनिर्दिष्ट तीन संकायाध्यक्ष ;
 - (3) कुलपति द्वारा नामनिर्दिष्ट विश्वविद्यालय संस्था या विभागों के तीन प्रमुख ;
 - (4) विद्या परिषद् द्वारा सदस्यों में से नामनिर्दिष्ट दो शिक्षक ;
 - (5) कुलपति द्वारा नामनिर्दिष्ट दो शिक्षक ;

- (6) कुलसचिव ;
- (7) पुस्तकालयाध्यक्ष – सचिव।
4. गैर पदेन सदस्यों से भिन्न पुस्तकालय समिति के सभी सदस्य पांच वर्ष की कालावधि के लिये पदधारण करेंगे।
5. समिति के निम्नलिखित कर्तव्य होंगे :-
 - (1) पुस्तकालय विलेख सेवाओं तथा पुस्तकों के स्टॉक को अद्यतन करने हेतु समुचित संगठन तथा कृत्यों का उपबंध करना ;
 - (2) पुस्तकालय के आधुनिकीकरण तथा विकास हेतु तथा विलेखीकरण सेवाओं हेतु उपबंध करना ;
 - (3) कार्य परिषद् को विद्यार्थियों तथा अन्यो के द्वारा पुस्तकालय सेवा के प्रयोग हेतु फीस तथा अन्य प्रभारों को अनुशंसित करना ;
 - (4) पुस्तकालय के विकास हेतु वार्षिक बजट तैयार करना तथा प्रस्ताव कार्य परिषद् के अनुमोदन हेतु प्रस्तुत करना ;
 - (5) पुस्तकालय के क्रियाकलाप हेतु वार्षिक रिपोर्ट प्रस्तुत करना।

परिनियम क्रमांक-चालीस

उपाधि, पत्रोपाधि, प्रमाण-पत्र तथा अन्य शैक्षणिक विशिष्टताएं वापस लेना

1. **संक्षिप्त नाम.** — इस परिनियम का संक्षिप्त नाम मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय (उपाधि, पत्रोपाधि, प्रमाण-पत्र तथा अन्य शैक्षणिक विशिष्टताएं वापस लेना) परिनियम, 2013 है।
2. **परिभाषा.** — इस परिनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, —
 - (क) "परिनियम" से अभिप्रेत है मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय अधिनियम, 2011 (क्रमांक 19 सन् 2011) की धारा 36 और 37 के उपबंधों के अधीन बनाए गए परिनियम ;
 - (ख) उन शब्दों तथा अभिव्यक्तियों के, जो इन परिनियमों में प्रयुक्त हुए हों किन्तु परिभाषित नहीं किए गए हों, वे ही अर्थ होंगे जो अधिनियम में उनके लिए दिए गए हैं।
3. न्यायालय, कार्य परिषद् की अनुशंसा पर किसी व्यक्ति को प्रदत्त या मंजूर किसी प्रवीणता, उपाधि, पत्रोपाधि, प्रमाण-पत्र या अधिमान्यता को न्यायालय के कुल सदस्यों तथा बैठक में उपस्थित तथा मतदान करने वाले सदस्यों के न्यूनतम दो तिहायी बहुमत से पारित संकल्प द्वारा वापस ले सकेगा।
 - (एक) यदि ऐसा व्यक्ति किसी अपराध के लिए न्यायालय द्वारा दोष सिद्ध ठहराया गया हो जिसमें न्यायालय की राय में नैतिक अधमता अन्तर्बलित हो ;
 - (दो) यदि वह गंभीर दुराचरण का दोषी हो या उसने ऐसी उपाधि या पत्रोपाधि या प्रमाण-पत्र कपटपूर्वक प्राप्त कर लिये हों या झूठे प्रमाणपत्र के माध्यम से प्रवेश प्राप्त कर लिया हो।
 - (तीन) इन परिनियमों के अधीन किसी व्यक्ति के विरुद्ध कोई भी कार्रवाई तब तक नहीं की जाएगी जब तक कि उसको प्रस्तावित कार्रवाई के विरुद्ध कारण बताने का एक अवसर नहीं दे दिया जाता।
4. न्यायालय द्वारा पारित संकल्प की प्रति संबंधित व्यक्ति को तत्काल भेजी जाएगी।
 - (एक) न्यायालय के आदेश से व्यथित कोई व्यक्ति कुलधिपति को ऐसे संकल्प की प्राप्ति के दिनांक से 30 दिवस के भीतर अपील कर सकेगा।
 - (दो) ऐसी अपील पर कुलाधिपति का विनिश्चय अंतिम होगा।

No. F-4-18-2013-2-LV.—In exercise of the powers conferred by sub-section (1) of section 37, read with section 36 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011) the State Government, hereby, makes the following first Statutes for the Madhya Pradesh Ayurvedigyan Vishwavidyalaya, namely:—

1.Short title and commencement.—(1) These Statutes may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Statutes, 2013;

(2) They shall come into force with effect from the date of their publication in the Madhya Pradesh Gazette.

2. Definitions.—In these Statutes, unless the context otherwise requires,–

- (a) **“Act”** means the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011).
- (b) **“Employee”** means every whole-time officer, teacher or other employee of the University appointed permanently to a substantive post and includes those employees appointed on contract for a definite period of not less than three years and persons whose services have been lent to the University by Government;
- (c) **“Prescribed”** means Prescribed by rules;
- (d) **“Rector”** means a person appointed as Rector by the Executive Council;
- (e) **“Salary”** in relation to the employee means, monthly salary and includes all fixed allowances payable to the employee;
- (f) **“Section”** means Section of the Act;
- (g) **“State Government”** means the Government of Madhya Pradesh;
- (h) **“Statute”** means the Statute made under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011
- (i) **“University”** means the Madhya Pradesh Ayurvedigyan University;
- (j) **Words and expression** used but not defined in this statute shall have the meaning as assigned to them in the Act.

STATUTE-I

The terms and Conditions of Service of the Vice-Chancellor

1. Short title.– This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (The terms and Conditions of Service of the Vice-Chancellor) statute, 2013.

2. Definition.—In this statute, unless the context otherwise requires,—

- (a) **“Statute”** means the Statute made under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);

(b) "words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The Vice-Chancellor shall receive salary and other allowances as approved by the State Government from time to time. If he assumes his charge after attaining the normal age of superannuation and is receiving pension due to his past services, then his pay and allowances will be reduced by the gross amount of his pension fixed prior to commutation.
4. (1) During his tenure of office, the Vice-Chancellor shall be entitled to have a rent free furnished residential accommodation maintained by the University.
- (2) There may be a Secretarial office at the residence of the Vice-Chancellor maintained by the university.
- (3) The Vice-Chancellor shall be entitled to use a University vehicle, for official purposes as and when required, on such conditions as applicable to the Head of the Department of the State Government of equal cadre.

5. The Vice-Chancellor shall be eligible to opt for the General Provident Fund, Pension, Gratuity Scheme of the University if he has not attained the normal age of superannuation prior to commencement of his tenure and he has been also eligible for pension scheme as an employee of a Central/State Government or a Central/State autonomous body or a Central/State University before joining as Vice-Chancellor. If he opts to join GPF cum pension cum Gratuity Scheme of the university, the Vice-Chancellor shall be entitled to the benefit of combining his past service with the service as Vice-Chancellor up to the normal age of superannuation for the purpose of pension. For this purpose the university will receive pension/contributory provident fund liability from the previous organizations. The period of service rendered by him in the University beyond the normal age of superannuation shall not be counted for the purpose of pensioner benefits. The pension cum gratuity benefits shall be payable only from the date of his relinquishing the post of Vice-Chancellor. If the Vice-Chancellor assumes his office either after superannuation or superannuates during the tenure, he shall be entitled to join Contributory Provident Fund Gratuity Scheme from the date of joining the post.

6. The Vice-Chancellor shall be entitled to 30 days earned leave on full pay in a calendar year. Such leave shall be credited to his account in advance in two half yearly instalments of 15 days each on the first day of January and first day of July every year:

Provided that if the Vice-Chancellor assumes/relinquishes charge of the office of Vice-Chancellor during the currency of the half year, the leave shall be credited proportionately at the rate of two and half days for each completed month of service.

7. (1) The leave at the credit of the Vice-Chancellor at the close of the previous half-year shall be carried forward to the new half year, Subject to the condition that the leave so carried forward plus the credit for that half year does not exceed the maximum limit of 240 days.
- (2) The Vice-Chancellor on relinquishing the charge of the office shall be entitled to receive a sum equivalent to the leave salary admissible for the number of days of leave on full pay due to him at the time of his relinquishment of charge subject to a maximum of 240 days including encashment benefit.

- (3) The Vice-Chancellor shall also be entitled to half pay leave at the rate of 20 days for each completed year of service. This half pay leave may only be availed of as commuted leave on full pay on medical certificate. When commuted leave is availed, twice the amount of half pay leave shall be debited against half pay leave dues.
- (4) The Vice-Chancellor shall also be entitled to avail himself extraordinary leave without pay for a maximum period of three months during a term of four years on medical ground or otherwise.
8. (1) The Vice-Chancellor shall be entitled to all other benefits such as medical reimbursement and Leave travel Concession as admissible to officers of the State Government.
- (2) The Vice-Chancellor shall be entitled to Travelling Allowance on Transfer on his appointment as Vice-Chancellor and after relinquishment of his charge.
- (3) For leave and other benefits which are not covered in this statute, the rules of State Government shall be applicable.
- (4) The person appointed as the Vice-Chancellor shall hold a lien, if any, on the post in which he is confirmed prior to the appointment.

9. (1) If a person receiving an honorarium from the Consolidated Fund of the State or if the principal of an affiliated college or a recognised institution or a University teacher is appointed as the Vice-Chancellor, the terms and conditions of service shall not be altered to the disadvantage during such person's tenure as the Vice-Chancellor, Provided that, the resultant vacancy in such post shall not be filled in by a long term appointment during the tenure of such persons as the Vice-Chancellor.

(2) The perks and other allowances of the parent department will be protected.

10. The Vice-Chancellor may, by writing under own signature addressed to the Chancellor, after giving one month's notice, resign from his office and shall cease to hold his office, on the acceptance of the resignation by the Chancellor or from the date of expiry of the said notice period, whichever is earlier.

STATUTE-II

Powers and Duties of the Vice-Chancellor

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Powers and Duties of the Vice-Chancellor) statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) "Statute" means the Statute made under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) "words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The Vice-Chancellor shall be the principal administrative and Chief Academic Officer of the University and in that capacity shall exercise overall control over the administration, finances

and the academic activities of the University and shall give effect to the decisions of the authorities of the University. He shall be responsible for maintenance of proper administration and discipline of the University, coordinate between various wings of the University and ensure strict vigilance over the staff, both teaching and nonteaching, for the proper, sincere and upright functioning of the university.

4. The Vice-Chancellor shall ensure that directions issued by the Chancellor are strictly complied with or, as the case may be, implementation in a period of time.

5. It shall be the duty of the Vice-Chancellor to ensure that the provisions of the Act, Statutes, Ordinance Rules and Regulations are faithfully observed and that the decisions of the authorities, bodies and committees which are not inconsistent with the Act, Statutes, Ordinances, Rules or Regulations are properly implemented, and for that purpose exercise all the powers vested in him under the Act.

6.(1) The Vice-Chancellor may constitute such committees as he deems necessary to help him in the discharge of his duties entrusted to him by or under the Act.

(2) For the purpose of exercising vigilance and maintaining discipline among the staff of the university, the Vice-Chancellor shall be the disciplinary authority within the meaning of the Madhya Pradesh Civil Service (Classification, Control and Appeal) Rules, 1966 which will be followed mutatis mutandis for the purpose of disciplinary proceedings against the staff both teaching and nonteaching of the University.

7. Where any matter is required to be regulated by Statutes, Ordinances, Rules or Regulations but no Statutes, Ordinances, Rules or Regulations are made in that behalf, the Vice-Chancellor may, for the time being, regulate matter by issuing such directions as the Vice-Chancellor thinks necessary, and shall at the earliest opportunity or within 365 days whichever is less, thereafter, place them before the Executive Council or other authority or body concerned for approval as per the Act. The Vice-Chancellor may, at the same time place before such authority or body for consideration the draft of Statutes, Ordinances, Rules or Regulations as the case may be, required to be made in that behalf.

8. The Vice-Chancellor shall be the appointing authority for the University teachers on the recommendations of the selection committee constituted for the said purpose and after approval by the Executive Council.

9. In accordance with the section 48 of the Act The Vice-Chancellor shall be the appointing authority for officers of the University of the rank of Assistant Registrar and of the rank equivalent thereto-and above and after approval by the Executive Council.

10.(1) It shall be the duty and responsibility of the Vice-Chancellor to ascertain that the academic standards in different departments of Health Sciences Education of the University as well as undergraduate and departments of affiliated colleges are improved and properly maintained in strict adherence with the provisions of the Statutes, the Ordinances, Regulations or Rules framed made under the Act.

(2) He shall have the right to inspect or visit any academic and administrative department of the University and other institutions or colleges maintained or managed by, or affiliated to the University and take the appropriate action for improvement of quality of academic/administrative as he may deem fit and proper.

11. He shall have the power to suggest to the Executive Council changes in the infrastructure of administration of the University including abolition, redesignation, and/or creation of new posts of teachers, officers and employees of the University.

12. The Vice-Chancellor shall have the power to suspend a member from the meeting of the authority, body or committee for indulging in behaviour unbecoming of a member, and shall report the matter accordingly, to the Chancellor.

13. The Vice-Chancellor may sanction an allowance to an employee of the University for any special duties assigned to such employee or additional duties performed by him which in the opinion of the Vice-Chancellor warrants such payments. Provided that such allowances shall not exceed 6% of the basic salary of such employee.

14.(1) To approve his own tours programmes and countersign his Travelling Allowances bills to the provision of the University.

(2) To countersign Travelling Allowance bills and sanction absence on duty beyond jurisdiction of officers of the University.

15. To grant leave as per delegation power.

STATUTE NO-III

Terms and Conditions of Service and Powers and Duties of the Rector

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Terms and Conditions of Service and Powers and Duties of the Rector) statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. (1) A Rector shall be appointed by the Executive Council on the recommendation of the Vice Chancellor. If the Executive Council does not except the recommendation of the Vice Chancellor, the matter shall be referred to the Chancellor whose decision thereon shall be final.

(2) Person, who has not completed the maximum age and possesses such qualification as fixed for the appointment of Vice Chancellor under the Act, shall be appointed as Rector.

(3) The term of the Rector shall be co-terminus with the term of the Vice Chancellor:

Provided that in the event of the occurrence of a vacancy in the office of the Vice Chancellor by reason of expiry of his term, death, resignation or otherwise, the Rector may continue to hold office thereafter until his successor enters upon office but this period shall not exceed one year:

Provided further that the Rector in office at the time of occurrence of a vacancy in the office of the Vice-Chancellor, shall also be eligible for appointment as Vice Chancellor if he has not completed the maximum age fixed for the appointment of Vice Chancellor.

4. The Rector shall be a salaried officer of the University and he shall receive a salary on the pay scale as fixed by the Government from time to time per month. He shall be entitled to other allowances at the rates admissible from time to time to the officers of the equal grade of the University.
5. The Rector shall also be entitled to such leave, medical reimbursement/or medical allowance in lieu of medical reimbursement, and such other privileges as are granted by the University to its whole-time officers, and shall also like-wise be entitled to the benefits of Contributory Provident Fund:

Provided that the Contributory Provident Fund shall not be admissible to a Rector, who prior to his appointment was in the service of the Central Government or a State Government and who is in receipt of, had received or had become entitled to receive any retirement benefit such as pension or gratuity or both:

Provided further that the benefit of non-contributory Provident Fund/ General Provident Fund will be admissible to such Rector, at his option. The statutory Provisions relating to Provident Fund except in so far as they relate to contribution by the University shall be applicable in such a case.

6. The Rector shall perform such duties and exercise such powers as may be assigned to him from time to time by Vice Chancellor.

STATUTE NO-IV

The Emoluments, Conditions of Service, Powers and Duties of the Registrar

1. **Short title.**— This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (The Emoluments, Conditions of Service, Powers and Duties of Registrar) statute, 2013

. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3.(1) No person shall be eligible for appointment as Registrar unless he/she possesses such conditions as the Executive Council may from time to time, determine in accordance with the sub-section (2) of section 17 of the Act.

- (2) The appointment of the registrar shall be made on deputation from any department of State Government Hence His emoluments and Conditions of Service, including leave, salary, leave salary, allowances, medical, provident fund; pension, gratuity,

retirement and other benefits will be determined by the terms of deputation fixed by the parent department of the State Government. It shall be the duty of the Registrar—

- (a) to be the custodian of the records, funds (drawing and disbursing), the common seal and such other property of the University, as the Executive Council shall commit to his charge;
- (b) to issue all notices convening meeting of the Court, the Executive Council, the Academic Council, the Academic Planning and Evaluation Board and any bodies or committees appointed under the Act of which he is to act as Secretary;
- (c) to keep the minutes of all meetings of the Court, the Executive Council, the Academic Council, the Academic Planning and Evaluation Board and any bodies or committees of the University appointed under the Act of which he is to act as Secretary;
- (d) to conduct the official correspondence of the University, the Court, the Executive Council, the Academic Council and the Academic Planning and Evaluation Board with permission of the vice-chancellor.
- (e) to supply to the chancellor and vice chancellor –
 - (i) copies of the agenda of the meetings of the University authorities, as soon as such agenda is issued ;
 - (ii) the minutes of the meetings of the University authorities, within a fortnight of the holding of such meetings; and
 - (iii) such other papers and information as he may be directed by the Vice Chancellor to him to supply from time to time.
4. Subject to the control and approval of the Vice-Chancellor, the Registrar shall have power to appoint the Class III and Class IV staff of the University and likewise shall exercise disciplinary control over them. An appeal by an aggrieved person by the decision of the Registrar may be preferred, within thirty days from the date of communication of such decision, to the Vice-Chancellor, whose decision will be final.
5. The Registrar may, if desired by the Chairman of any authority or body, of which he is the secretary, speak at a meeting of such authority or body.
6. The Registrar shall render such assistance as may be desired by the Vice Chancellor in the performance of his official duties.
7. The Registrar shall exercise such other powers and perform such other duties as prescribed by or under this Act or assigned to him, from time to time by the Vice-Chancellor.

8. If at any time upon representation made or otherwise and after making such enquiries, as may be deemed necessary it appears to the Vice Chancellor that the, Registrar is not performing any duty imposed on him by the Act or working against the interest of the University or is incapable of the managing the university affairs, the Vice Chancellor should take immediate action as per rule including return of services to the original department.
9. The Registrar shall publish and update the Handbook of the Statutes, Ordinances and Regulations approved by the authorities, bodies or committees from time to time, and make them available to all the respective members of the authorities and officers of the University.
- 10.(1) The Registrar shall receive complaints and suggestions in regard to the improvement of administration and consider them for appropriate action in consultation with the Vice Chancellor.
- (2) It shall also be the duty of the Registrar to look after the efficient maintenance of the buildings of the University and allocate space for accommodation of different departments of the University and staff quarters to the teachers, officers and employees.
- (3) He shall be responsible for maintenance of service records of the teachers, officers and non-teaching employees of the University.
- (4) He shall take all necessary administrative steps for recruitment / Promotion of all categories of teachers, officers, and non-teaching staff of the University, in the manner prescribed by the Statutes and Act with the approval of the Vice-Chancellor.

STATUTE NO-V

Powers and Duties of the Controller of the Examination (Registrar Evaluation)

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Powers and Duties of the Controller of the Examination (Registrar Evaluation)) Statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.
- 3.(1) The Controller shall be responsible for making all arrangements necessary for holding examinations and tests and declaration of results. It shall be the Controller's responsibility in consultation with vice-chancellor:-
 - (a) to prepare and announce in advance; the calendar of examinations;
 - (b) to arrange for printing of question papers;

- (c) to arrange to get performance of the candidates at the examination properly assessed, and process the results;
 - (d) to arrange for the timely publication of results of examinations and other tests;
 - (e) to postpone or cancel examinations, in part or in whole, in the event of malpractices or if the circumstances so warrant, and take disciplinary action or initiate any civil or criminal proceedings against any person or a group of persons or a college or an institution alleged to have committed malpractices;
 - (f) to take disciplinary action where necessary against the candidates, paper setters, examiners, moderators, or any other persons connected with examinations and found guilty of malpractices in relation to the examinations;
 - (g) to review from time to time, the results of University examinations and forward reports thereon to the Academic Council.
- (2) The Controller of Examinations shall exercise such other powers and perform such other duties as may be prescribed or assigned to him, from time to time, by the vice-chancellor.
- (3) If at any time upon representation made or otherwise and after making such enquiries, as may be deemed necessary it appears to the Vice Chancellor that the, The Controller of Examinations is not performing any duty imposed on him by the Act or working against the interest of the University or is incapable of the managing the university affairs, the vice chancellor on consultation with the executive council should take immediate action including return of services to the original department.
4. Controller of Examinations will make arrangements to develop proper hardware and software for maximum automation of examination system covering all the components including examinee data base, prerequisite completion (attendance, fee, etc.) paper setter, question paper delivery, evaluation of marks, including internal examination, result preparation and any other parameters as and when needed.
5. Controller of Examinations will be responsible for preparing the provisional degrees, degrees transcription and gold medals certificates and any other such documents duly signed by the Competent Authority.
6. To conduct the pre examination section this will be as follows:—
- (i) Making yearly calendar of examination;
 - (ii) Advance notification of Exam time table and fees;
 - (iii) Receiving application for exam and updating it;
 - (iv) Verification of exam form and examination fee;
 - (v) Verification of attendance;

- (vi) Verification of internal assessment marks;
- (vii) Receiving the synopsis and dissertation (thesis) and getting it evaluated;
- (viii) Printing the admit card after completion of all the prequalification;
- (ix) Examination centre identification and Observer squad formation ;
- (x) Making the complete data base of teachers/ examiners and continuous updating it;
- (xi) Creating a unique ID for teachers/examiners, faculty wise;
- (xii) Appointment of the examiners;
- (xiii) Formation of the examiner bank and continuous updating it;
- (xiv) Formation of the question bank and continuous updating it.

STATUTE NO-VI

The Dean of Student's Welfare - Terms and Conditions of Service, Powers and Duties

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (The Dean of Student's Welfare - Terms and Conditions of Service, Powers and Duties) Statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) "Statute" means the Statute made under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
 - (b) "words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.
3. The Dean of Students' Welfare shall be appointed for a term of three years and shall be eligible for reappointment:

Provided that he shall, cease to hold office on completing the age of superannuation years:

Provided further that before the expiry of his term of three years, the Executive Council may, on a report from the Vice-Chancellor, terminate the appointment of Dean of Student's Welfare if it is satisfied that further continuance of the Dean Students' Welfare will be detrimental to the cause for which he has been appointed or in the interests of the University, after giving reasonable opportunity of being heard.

4. As per sub section (2) of section 18, in situation of non availability of whole time salaried officer, the Dean of Students' Welfare may be appointed by the Executive Council on the recommendation of the Vice-Chancellor, any teacher not bellow the rank of associate Professor from the Government Medical College, in addition to his duties as such teacher with paying the suitable allowances as decided by the executive council.

5. The Dean of Students' Welfare, if appointed on full time basis amongst the Teachers of the University/affiliated colleges, shall continue to hold his lien on his substantive post and shall be eligible to all the benefits that would have otherwise accrued to him for his appointment as Dean of Student's Welfare.
6. The Dean of Students' Welfare shall be entitled to leave, leave salary, allowances, and provident fund, medical and other benefits as admissible to him as in the parent institution.
- 7.(1) The Dean of Students' Welfare shall be the Advisor-cum-Treasurer of the University Students' Union and the head of the Information Bureau and the Employment Bureau in the University.
- (2) If the Executive Council, the Academic Council or the Court so desires, the Dean of Students' Welfare shall, be present at any meeting of the authority concerned when matters relating to Students Welfare come up for consideration therein.
- (3) Subject to the control of the Vice-Chancellor, the Dean of Students' Welfare shall-
 - (a) make arrangements to ensure suitable housing facilities for students;
 - (b) arrange for employment of students in accordance with the plans approved by the Vice-Chancellor;
 - (c) communicate the guardians of the students regarding the welfare of students;
 - (d) obtain travel facilities for students;
 - (e) assist the students in obtaining Scholarship, Studentships, etc. by giving them information relating thereto;
 - (f) perform such other duties as may be assigned to him from time to time by the Vice-Chancellor.

STATUTE NO-VII
Powers and Duties of Finance Controller
under section 36 (e)

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Powers and Duties of Finance Controller Statute, 2013)

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) "Statute" means the Statute made under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) "words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The Finance controller shall work under the direct control and supervision of the Vice-Chancellor. He shall be the principal administrative officer in-charge of finance management and maintenance of accounts of the University. He shall be responsible to:—

- (a) exercise the general administration of the funds, and the finances, the properties and assets and all endowments and trusts of the University;
- (b) get all receipt and disbursements; - collect the income, disburse the payments and maintain the accounts of the University;
- (c) processing of all bills including the salary bills and wages with appropriate deductions like TDS/PT/GPF/GIS etc. and ensure payment of the same without any undue delay;
- (d) the maintenance of stock register and all account books and keeping them up-to-date at regular intervals;
- (e) prepare the Periodical Statements of accounts to review the finances of the University and presentation of the same to Vice-Chancellor and Finance Committee for consideration;
- (f) the sign all cheques on behalf of the University.
- (g) shall maintain minutes of the meetings of Finance and Accounts Committee and the committees appointed by the Finance and Accounts Committee.
- (h) keep watch and report regularly on the progress of collection of revenue and propose the Vice-Chancellor on the methods to be employed for collection;
- (i) prepare the Annual Budget as preferred by the Finance Committee and presentation of the same and audit reports before the Senate through the Executive Council in accordance with the provisions of the Act;
- (j) for having the account of the university audited regularly, Preparation of Annual Statements of accounts and the audit report relating to annual statement of Accounts, the Internal Audit Report and the Annual Balance Sheet and submission of the same to the State Government;
- (k) hold and manage the funds, property and investments, including trust and endowed property, for furthering any of the objects of the University with the approval of the executive council;
- (l) ensure that the limits fixed by the University for recurring and non-recurring expenditure for a year are not exceeded, and that all allocations are expended for the purposes for which they are granted or allotted;
- (m) keep watch and report regularly on the state of the cash and bank balances and of investments to the vice-chancellor;
- (n) ensure that the registers of buildings, land, equipment and machinery are maintained upto-date and that the Annual physical verification of all items and stock taking of

equipments and other consumable materials in all offices, colleges, workshops and stores of the University is conducted regularly;

- (o) propose to the Vice-Chancellor that explanation be called for unauthorised expenditure or other financial irregularities from any academic member of University;
- (p) propose to the Registrar that explanation be called from any non-academic member for unauthorised expenditure or irregularities in any particular case, and recommend disciplinary action against the persons at fault;
- (q) call from any office, regional centre, college, department of the University or University Institution, any information and returns as deemed necessary for the proper discharge of the financial responsibilities.

4. If at any time upon representation made or otherwise and after making Such enquiries, as may be deemed necessary it appears to the Vice Chancellor. The Finance officer (Controller) is not performing any duty imposed on him by the Act or working against the interest of the university or is incapable of the managing the university affairs, the vice chancellor on consultation with the executive council should take immediate action including return of services to the original department.

5. Exercise such other powers, perform such other duties, and discharge such other functions as are assigned, by the Vice-Chancellor or are prescribed by Statutes, Ordinances or Regulations, from time to time.

STATUTE NO-VIII

Constitution, Powers and Duties of Regional Co-ordination Centre

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Constitution, Powers and Duties of Regional Co-ordination Centre) Statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. Under section 6 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam 2011 (No. 19 of 2011), the jurisdiction of the University shall extend to the whole of the Madhya Pradesh. To give effect to the provisions of section 6 of the Act and for the purpose of smooth operation of university activities and geographic convenience of the students and institutions of the university, regional centres shall be constituted. The Regional centres shall be at five places, Jabalpur, Bhopal, Indore, Gwalior, and Rewa. The university can extend the Regional centres as and when required.

4. The jurisdiction of the regional centres shall be follows:—

Regional centre (1)	Jurisdiction (2)
1. Bhopal	Bhopal Division –Narmadapuram Division
2. Gwalior	Gwalior Division – Chambal Division
3. Indore	Indore Division – Ujjain Division
4. Jabalpur	Jabalpur Division – Sagar Division
5. Rewa	Rewa Division – Shahdol Division

5. Structure of the Regional centre,—

- (a) Chief Coordinator:- Dean (ex-officio)
- (b) Executive coordinator:- One Professor
- (c) Custodian:- One Associate Professor
- (d) Assistant coordinator:- three Assistant Professor (One-Medical & Dental, One-AYUSH, One- Nursing & Paramedical)
- (e) Office superintendent
- (f) Computer operator
- (g) Data entry operator
- (h) Class IV
- (i) Executive coordinator, Custodian and Assistant coordinator shall be appointed as a part time duty officer in addition to their original work.
- (j) Executive coordinator, Custodian and Assistant coordinator shall be, nominated by vice-chancellor in consultation with the Chief Coordinator
- (k) The tenure of the team shall be for two years from the date of appointment and can be extended for one more year, in case of any unsatisfactory condition the Vice chancellor may remove any of the persons of the regional centres
- (l) Advisory Council:-there shall be an advisory council consisting of the members of the board of studies of the University of the Regional Area.
- (m) The meeting of the Advisory Council shall be called by Chief Coordinator as and when required.

6. Powers and duties of Regional Co-ordinator Centre,—

- (1) The Regional Chief Coordinator shall be responsible for the overall superintendence of the centre and effective discharge of the responsibilities entrusted to Regional Chief Coordinator by the Vice-chancellor;

- (2) Regional Executive coordinator shall be responsible for Communication of the information, as per the policies of the University, regarding all the matters related to the University with the institutions, under the regional purview. He / She shall provide all the information available on the University web-site regarding University matters, if requested by the institutional authorities, on the payment of fees as decided by the university authorities;
 - (3) Regional Executive coordinator shall make arrangements to receive and distribute material related to the University administration. (Example - Enrolment forms, Examination forms, etc.);
 - (4) Regional Executive coordinator shall supervise the central assessment program (CAP) in the region. He / She shall ensure the availability of the facilities as regard space, manpower, stationary, communication and other facilities in consultation with the Dean / Principal of the Institution where CAP is held under the guidance of examination controller.;
 - (5) Regional Executive coordinator shall help the exam controller to execute the Paper-setting work, as and when required;
 - (6) Regional Executive coordinator In case of non-reporting of practical examiner/theory evaluator, Regional Co-ordinator shall propose alternative arrangement of an examiner /evaluator from the panel of examiners, in consultation with Controller of Examination for approval of Hon'ble Vice-Chancellor. Regional centres can take help of the local members of the university board of studies for the smooth working of the regional centre;
 - (7) Regional Chief Coordinator and Executive coordinator shall hold a joint account, where the centre is situated;
 - (8) Regional Executive coordinator shall arrange for the payment of travelling allowance/Daily allowance bills and remuneration of the examiners in consultation with finance controller and exam controller of the university;
 - (9) Regional Executive coordinator shall keep and disseminate all the information regarding workshop / training and other educational activities of the University. And help in conducting teachers training programme and other academic activities;
 - (10) Regional Executive coordinator shall assist the Registrar in legal matters.
- 7.(1) Regional Executive coordinator shall also be responsible for carrying out such tasks and responsibilities as assigned to him / her by the Vice-Chancellor from time to time;
 - (2) Regional Executive coordinator after the approval of the Chief coordinator shall be required to submit a "Quarterly Report" of the functioning of the sub centre to the Vice-Chancellor;
 - (3) Regional Executive coordinator shall be the member secretary of the "Advisory Council" of the sub centre and shall be responsible for conveying its meetings and also recording of the minutes of the same (if approved);

- (4) Regional Executive coordinator shall arrange the superintendent, assistant superintendent, invigilators and to depute the flying squad team with the help of the head of the institutions.
- 8.(1) Regional centre will be situated in the Premises of Government Medical College affiliated to the University in the space provided by the dean to the satisfaction of the university;
- (2) Regional Chief and Executive coordinator shall ensure the strict maintenance of schedule of the time bound activity like academic calendar and examination related work;
- (3) Regional Chief and Executive coordinator shall exercise the powers conferred upon him from time to time by regulation or ordinances by the University.
- 9.(1) The ministerial staff /teaching staff of the affiliated collages / institutes can be deputed to the Regional centre as and when required by the order of Vice Chancellor;
- (2) The Regional centre will be equipped with essential furniture, fax, telephone, internet, printer, scanner, inverter, UPS, stationary and any other facility as and when required, will be provided by the University.
- 10.(1) The honorarium and the remuneration to the teaching and non teaching staff of the Regional centre will be as per the ordinances and regulations made from time to time by the University;
- (2) The Regional centre will have to do all such other duties as decided by the vice chancellor from time to time;
- (3) All the regional centres will be under the direct governance of the Vice Chancellor.

STATUTE NO-IX

Standing Committee of the Academic Council

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Standing Committee of the Academic Council) Statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The Standing Committee to be constituted under sub-section (2) of Section 28 shall consist of the following members:—

- (a) The Vice-Chancellor, and
- (b) Deans of all the Faculties.

4. The Registrar shall act as the Secretary of the Committee.

5. The Vice-Chancellor may invite such other persons, not exceeding three, as it may deem fit for research and academic growth purpose.

6. Meetings of the Committee shall be convened under the direction of the Vice Chancellor.

7. It shall be the duty of the Standing Committee to render advice on equivalence of examinations in consultation with the Faculty concerned and such matters as may be referred to it by the Academic Council, the Executive Council or the Vice-Chancellor.

8. Subject to the provisions of the Act and the Statutes, the committee can dispose of other matters referred to it by the Academic Council. In every case where the Standing Committee disposes of any matter, the matter shall be reported to the Academic Council.

9. Vice-Chancellor and at least three deans of faculty shall form the quorum of meeting.

STATUTE NO-X

Faculties in various system of Medicine

[see section 29(1)]

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Faculties of Medicine, Dentistry Indian System of Medicine Homoeopathy, Paramedical and Allied Sciences) Statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. There shall be all or any of the following Faculties, namely:—

(1) Faculty of Medicine—

(a) For Group of Under Graduate Subjects

- (i) Board of Studies in Pre-Clinical Medical Subjects
- (ii) Board of Studies in Para-Clinical Medical subjects

- (iii) Board of Studies in Clinical subjects (Medicine and Allied subjects)
- (iv) Board of Studies in Clinical subjects (Surgery and Allied subjects)
- (b) For Group of Post Graduate Subjects
 - (i) Board of Studies in Pre-Clinical Medical Subjects
 - (ii) Board of Studies in Para-Clinical Medical subjects
 - (iii) Board of Studies in Clinical subjects (Medicine and Allied subjects)
 - (iv) Board of Studies in Clinical subjects (Surgery and Allied subjects)
 - (v) Board of Studies in Superspeciality (Medicine and Allied subjects)
 - (vi) Board of Studies in Superspeciality (Surgery and Allied subjects)

(2) Faculty of Dentistry

- (a) For Group of Under Graduate Subjects
 - (i) Board of Studies in Pre-Clinical (Dental) Subjects
 - (ii) Board of Studies in Clinical (Dental) Subjects
- (b) For Group of Post Graduate Subjects
 - (i) Board of Studies in Pre-Clinical (Dental) Subjects
 - (ii) Board of Studies in Clinical (Dental) Subjects

(3) Faculty of Indian System of Medicine

- (a) For Group of Under Graduate Subject in Ayurved
 - (i) Board of Studies in Pre-Clinical Ayurved Subjects
 - (ii) Board of Studies in Para- Clinical Ayurved Subjects
 - (iii) Board of Studies in Clinical Ayurved Subjects
- (b) For Group of Post Graduate Subject in Ayurved
 - (i) Board of Studies in Pre-Clinical Ayurved Subjects
 - (ii) Board of Studies in Para- Clinical Ayurved Subjects
 - (iii) Board of Studies in Clinical Ayurved Subjects
- (c) For Group of Under Graduate Subject in Unani:-
 - (i) Board of Studies in Unani Subjects
- (d) For Group of Post Graduate Subjects in Unani:-
 - (i) Board of Studies in Unani Subjects
- (e) For Group of Under Graduate Subjects in Naturopathy and Yoga sciences (B.N.Y.S - Bachelor of Naturopathy and yogic Sciences)

(i) For Group of Under Graduate Subjects:

- (f) For Group of Post Graduate Subjects in Naturopathy and Yoga sciences
- (g) For Group of Under Graduate Subjects in Siddha (Bachelor of Siddha Medicine and Surgery – BSMS)
- (i) For Group of Under Graduate Subjects :
- (h) For Group of Post Graduate Subjects in Siddha

4. Faculty of Homoeopathy,

- (a) For Group of Under Graduate Subjects in Homoeopathy
 - (i) Board of Studies in Pre-Clinical Homoeopathic subjects
 - (ii) Board of Studies in Para-Clinical Homoeopathic subjects

(iii) Board of Studies in Clinical Homoeopathic subjects

(b) For Group of Post Graduate Subjects in Homoeopathy

(i) Board of Studies in Homoeopathic Subjects

(ii) Board of Studies in Homoeopathic Allied Subjects

5. Faculty of Nursing sciences

(i) For Group of Under Graduate Subjects:

(ii) For Group of Post Graduate Subjects:

6. Faculty of Paramedical & Allied Health Sciences

(i) For Group of Under Graduate Subjects :

(ii) For Group of Post Graduate Subjects:

STATUTE NO-XI

Constitution, Powers and Duties of the Faculty

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Constitution, Powers and Duties of the Faculty) Statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. Each faculty shall consist of the following members, namely:

- (a) The Dean of the Faculty - Chairman,
- (b) Chairman of all the Boards of Studies for the subjects comprised in the Faculty,
- (c) One Professor from each of the Department assigned to the Faculty from Government colleges by rotation preferably according to seniority,
- (d) One college Professor from each department assigned to the Faculty by rotation preferably according to seniority from private colleges,
- (e) Three academic head of colleges(Dean/principals), (two from government, and one from private colleges), other than College Professors of affiliated Colleges teaching any of the subjects comprised in the Faculty by rotation preferably according to seniority,
- (f) Four Associate Professors and four Assistant Professors of University Teaching Departments/Schools of studies, constituent college, affiliated colleges, teaching any of the subjects comprised in the Faculty, by rotation preferably according to seniority
- (g) Three persons assigned to the Faculty by the Academic council from amongst its members.

- (h) Not more than three persons not connected with the University or any college and having expert knowledge of the subject or subjects comprised in the Faculty co-opted by persons becoming members under clauses (a) to (g) above:

Provided that not more than one person representing any one department of the faculty shall be co-opted.

4. The Dean shall be appointed by the Chancellor on the recommendation of the Vice-Chancellor for a period of two years from amongst the professors of the University teaching department or schools of studies or college professors who are teachers in the said subject :

Provided that if there is no professor of the University teaching departments in the said subject, the Dean shall be appointed from amongst the professors of affiliated colleges who are teachers in the said subject:

Provided Further that, if in any Faculty there is no Professor, senior most teacher with Post Graduate qualification in that Faculty shall be incharge.

5. The Dean of each Faculty shall be the Executive Officer of that Faculty and shall preside at the meetings of the Faculty and shall be responsible for the smooth running of the Faculty. He shall be responsible for the due observance of the Statutes, the Ordinances and the Regulations relating to the Faculty and for the conduct and maintenance of standards of teaching and research.

6. The Dean shall have the right to be present and to speak at any meeting of any Boards of Studies of the Faculty but shall have no right to vote.

7. The Dean shall perform such other duties as may be directed by the Vice-Chancellor from time to time.

8. Subject to the provisions of the Act, each Faculty shall have the following powers, namely:—

- (a) subject to the control of the Academic Council to organize, co-ordinate and regulate teaching and research activities of Departments assigned to the Faculty;
- (b) to approve the courses of studies for the different examinations in the Faculty proposed by the Boards of Studies and to remit matters to Board of Studies;
- (c) to recommend to the Academic Council the conditions for the award of degrees, diplomas and other distinctions including the scheme of examination for different degrees;
- (d) to deal with such other matters relating to the subjects within its purview as may be referred to it by the Academic Council, the Academic Planning and Evaluation Board or the Vice-Chancellor;
- (e) to hold meeting with the approval of the Vice-Chancellor jointly with any other Faculty or Faculties, such joint meetings to be convened and presided over by a Dean nominated by the Vice-Chancellor;
- (f) such other powers as may be assigned to it by the ordinances and regulation from time to time.

9. All members of the Faculty other than ex-officio members and the Dean shall hold office for a term of three years.

10. One-third of the total membership of the Faculty shall constitute a quorum.

STATUTE NO-XII**BOARD OF STUDIES**

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Board of Studies) Statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. There shall be the following Board of Studies, namely:—

(1) **Faculty of Medicine**

(A) For Group of Under Graduate Subjects:

Sr. No. (1)	Departments in College/Recognized Institute (2)	Corresponding Boards of Studies (3)
1.	(i) Human Anatomy (ii) Human Physiology including Biophysics (iii) Bio-chemistry	Board of Studies in Pre-Clinical Medical Subjects
2.	(i) Pathology (including Transfusion Medicine) (ii) Microbiology (iii) Pharmacology (iv) Forensic Medicine including Toxicology (v) Community Medicine / PSM	Board of Studies in Para-Clinical Medical subjects
3.	(i) Medicine (ii) Paediatrics (iii) Psychiatry (iv) Dermatology, Venereology and Leprosy (v) Tuberculosis and Respiratory Diseases (vi) Radiotherapy (vii) Radio – Diagnosis / Radiology	Board of Studies in Clinical subjects (Medicine and Allied subjects)
4.	(i) General Surgery (ii) Orthopaedics (iii) Oto-Rhinolaryngology (iv) Ophthalmology (v) Obstetrics and Gynecology (vi) Dentistry	Board of Studies in Clinical subjects (Surgery and Allied subjects)

(B) For Group of Post Graduate Subjects:

(1)	(2)	(3)
1.	(i) Anatomy (ii) Physiology (iii) Bio-chemistry	Board of Studies in Pre-Clinical Medical Subjects.
2.	(i) Pathology including Transfusion Medicine (ii) Microbiology (iii) Pharmacology (iv) Forensic Medicine (v) Community Medicine / PSM	Board of Studies in Para-Clinical Medical subjects.
3.	(i) General Medicine (ii) Paediatrics (iii) Radiotherapy (iv) Radio Diagnosis / Radiology (v) Psychiatry (vi) Dermatology, Venereology and Leprosy (vii) Tuberculosis and Respiratory Diseases	Board of Studies in Clinical subjects (Medicine and Allied subjects)
4.	(i) General Surgery (ii) Orthopaedics (iii) Oto-Rhinolaryngology (iv) Ophthalmology (v) Obstetrics and Gynaecology (vi) Anaesthesiology	Board of Studies in Clinical subjects (Surgery and Allied subjects)
5.	(i) Cardiology (ii) Clinical Haematology (iii) Clinical Pharmacology (iv) Endocrinology (v) Gastroenterology (vi) Medical Oncology (vii) Nephrology (viii) Neurology (ix) Pulmonary Medicine (x) Rheumatology	Board of Studies in Superspeciality (Medicine and Allied subjects)
6.	(i) Thoracic and Cardio Vascular Surgery (ii) Neurosurgery (iii) Surgical Oncology (iv) Pediatric Surgery (v) Plastic Surgery (vi) Surgical Gastroenterology (vii) Urology	Board of Studies in Superspeciality (Surgery and Allied subjects)

(2) Faculty of Dental Sciences

(A) For Group of Under Graduate Subjects:

Sr. No. (1)	Departments in College/Recognized Institute (2)	Corresponding Boards of Studies (3)
1.	(i) General Human Anatomy (ii) Physiology and Bio-Chemistry (iii) General Pathology and Micro Biology (iv) General Pharmacology (v) Dental Anatomy (vi) Community Dentistry (vii) Dental Materials (viii) Oral Pathology and Microbiology	Board of Studies in Pre-Clinical (Dental) Subjects
2.	(i) Prosthodontics (ii) Orthodontics (iii) Oral Maxilo Facial Surgery (iv) Periodontics (v) Paedodontics (vi) Oral diagnosis and Radiology (vii) Conservative Dentistry (viii) General Medicine (ix) General Surgery	Board of Studies in Clinical (Dental) Subjects

(B) For Group of Post Graduate Subjects:

1.	(i) Community Dentistry (ii) Oral Pathology and Microbiology	Board of Studies in Pre-Clinical (Dental) Subjects
2.	(i) Prosthodontics (ii) Orthodontics (iii) Oral Maxilo Facial Surgery (iv) Periodontics (v) Paedodontics (vi) Oral diagnosis and Radiology (vii) Conservative Dentistry	Board of Studies in Clinical (Dental) Subjects

3. Faculty of Indian system of Medicine (Ayurved, Unani, Yoga, Siddha, and Naturopathy)(A) For Group of Under Graduate Subjects in Ayurved :-

Sr. No. (1)	Departments in College/Recognized Institute (2)	Corresponding Boards of Studies (3)
1.	(i) Siddhanta Samhita and Sanskrit (ii) Rachana Sharir (iii) Kriya Sharir	Board of Studies in Pre-Clinical Ayurved Subjects. Board of Studies in Pre-Clinical

(1)	(2)	(3)
2.	(i) Agadtantra and Vidhi Ayurved (ii) Drayaguna (iii) Rasashastra and Bhaishajya Kalpana (iv) Rognidan (v) Swastha Vritta	Board of Studies in Para- Clinical Ayurved Subjects.
3.	(i) Prasutitantra Stree Rog (ii) Kaumar Bhritya (Balroga) (iii) Kayachikitsa (Medicine) (iv) Shalya Tantra (Surgery) (v) Shalakya Tantra (vi) Panchakarma	Board of Studies in Clinical Ayurved Subjects

(B) For Group of Post Graduate Subjects in Ayurved

Sr. No. (1)	Departments in College/Recognized Institute (2)	Corresponding Boards of Studies (3)
1.	(i) Siddhanta Samhita and Sanskrit (ii) Rachana Sharir (iii) Kriya Sharir	Board of Studies in Pre-Clinical Ayurved Subjects
2.	(i) Agadtantra and Vidhi Ayurved (ii) Drayaguna (iii) Rasashastra and Bhaishajya Kalpana (iv) Rognidan (v) Swastha Vritta	Board of Studies in Pre-Clinical Ayurved Subjects.
3.	(i) Prasutitantra Stree Rog (ii) Kaumar Bhritya (Balroga) (iii) Kayachikitsa (Medicine) (iv) Shalya Tantra (Surgery) (v) Shalakya Tantra (vi) Panchakarma	Board of Studies in Pre-Clinical Ayurved Subjects

(C) For group of Under Graduate Subjects in Unani :-

4	(i) Kulliyate (ii) Tashreeh (iii) Ilmul Advia (iv) Hifzane Sehat (v) Niswan. O. Atfal (vi) Moalijat (vii) Jarahiyat	Board of Studies in Unani subjects
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(1)	(2)	(3)
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(D) For Group of Post Graduate Subjects in Unani :—

4.	(i) Kulliyate (ii) Tashreeh (iii) Ilmul Advia (iv) Hifzane Sehat (v) Niswan. O. Atfal (vi) Moalijat (vii) Jarahiyat	Board of Studies in Unani Subjects.
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(E) For Group of Under Graduate Subjects in Naturopathy and Yoga sciences (B.N.Y.S - Bachelor of Naturopathy and yogic Sciences)

i. For Group of Under Graduate Subjects:

(F) For Group of Post Graduate Subjects in Naturopathy and Yoga sciences

(G) For Group of Under Graduate Subjects in Siddha (Bachelor of Siddha Medicine and Surgery – BSMS)

i. For Group of Under Graduate Subjects :

(H) For Group of Post Graduate Subjects in Siddha

(4) Faculty of Homoeopathy

(A) For Group of Under Graduate Subjects in Homoeopathy:

Sr. No.	Departments in College/Recognized Institute	Corresponding Boards of Studies
(1)	(2)	(3)
1.	(i) Homoeopathic Pharmacy (ii) Anatomy (iii) Physiology including Bio-chemistry (iv) Homoeopathic Materia Medica (Basic) (v) Organon of Medicine and Principles of Homoeopathic Philosophy and Psychology (Basic)	Board of Studies in Pre-Clinical Homoeopathic subjects.
2.	(i) Pathology and Microbiology (ii) Forensic Medicine and Toxicology (iii) Homoeopathic Materia Medica (applied) (iv) Organon of Medicine (applied)	Board of Studies in Pre-Clinical Homoeopathic subjects.
3.	(i) Practice of Medicine and Homoeopathic Therapeutics (ii) Homoeopathic Materia Medica (clinical) (iii) Organon of Medicine (clinical)	Board of Studies in Clinical Homoeopathic subjects.

(1)	(2)	(3)
	(iv) Homoeopathic Repertory (a) Community Medicine (b) Obs. and Gynac. With Homoeopathic Therapeutics	
	(c) Surgery with Homoeopathic Therapeutics.	
(B) For Group of Post Graduate Subjects in Homoeopathy:		
1.	(i) Homoeopathic Materia Medica (ii) Organon (iii) Repertory (iv) Homoeopathic Pharmacy	Board of Studies in Homoeopathic Subjects
2.	(i) Practice of Medicine and Homoeopathic Therapeutics. (ii) Paediatrics and Homoeopathic Therapeutics (iii) Psychiatry and Homoeopathic Therapeutics	Board of Studies in Homoeopathic Subjects

(5) Faculty of Nursing sciences

- (i) For Group of Under Graduate Subjects:
- (ii) For Group of Post Graduate Subjects:

(6) Faculty of Paramedical and Allied Health Sciences

- (i) For Group of Under Graduate Subjects :
- (ii) For Group of Post Graduate Subjects:

STATUTE NO-XIII

Constitution, Power and Function of the Board of studies

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Constitution, Power and Function of the Board of studies) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. Constitution of the Board of studies shall be constituted by the Vice-Chancellor, consisting of :—

- (1) (a) chairman Board of studies: Professor and head of Department by rotation based on seniority;
- (b) eight Professors by rotation nominated by Vice-Chancellor preferably based on seniority;
- (c) two Associate Professors by rotation nominated by Vice-Chancellor preferably based on seniority;
- (d) two Assistant Professors by rotation nominated by Vice-Chancellor preferably based on seniority;
- (e) two External expert members of relevant subject, nominated by Vice-Chancellor. External expert members may be from out of the State of Madhya Pradesh;
- (f) two Internal expert members of relevant subject, nominated by Vice-Chancellor from amongst the affiliated colleges/ institution.

- (2) One-third of the total membership of the Board of studies shall constitute a quorum.

4. Chairman and all members of the Board of Studies shall hold post for a term of three years:

Provided that the members nominated under clause (e) of section 3 shall hold the post for a period of one year only.

5. Each Board shall have the following powers, namely :—

- (a) to make scheme/syllabus for all the courses of the University;
- (b) to consult specialist regularly each year to review the syllabus and course scheme and recommend the modifications necessary to keep pace with changing knowledge base and requirement of the health sciences scenario of current time;
- (c) to recommend the text books for quality learning;
- (d) to prepare scheme of examinations;
- (e) to prepare panels of names of persons suitable for appointment of paper-setters / examiners /valuers.

6. It shall be the duty of the Board of Studies to consider and report on any matter referred to it in accordance with the Act, Statutes, Ordinances or Regulations by the Executive Council or by the Academic Council or by the Faculty concerned or by the Vice-Chancellor.

7. Any two or more Boards may, and, at the request of the Executive Council or the Academic Council or by the Vice-Chancellor shall meet and make a joint report upon any matter which lies within the purview of both. In such cases, the joint meeting shall be chaired by the senior member. Chairman and the quorum for such a joint meeting shall include the full quorum of each Board represented; no member shall be counted more than once for the purpose of determining the quorum.

8. The members included in the board of studies will form advisory council of the regional center, as the provision made in the statute, and will help and advice in the smooth functioning of the regional center.

9. Board of studies will meet at least twice in the calendar year, the meeting of the board of studies may be called upon by Vice-Chancellor as and when required.

10. The Vice-Chancellor may in urgent cases, obtain the opinion of the Board of Studies by circulations of any proposal among the members in urgent cases. Such opinion together with the action taken thereon shall be communicated to all the members.

STATUTE NO-XIV

Qualifications of Professors, Associate Professors, Assistant Professors, and Other Teachers in Affiliated Colleges and Recognised Institutions.

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Qualifications of Professors, Associate Professors, Assistant Professors, and Other Teachers in Affiliated Colleges and Recognised Institutions) Statute, 2013.

2. Definition.- In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The qualification of teachers including Principal/Dean in affiliated colleges shall be as prescribed by the All India Council of Health Science Education in concerned Faculty.

It should be noted that University can propose higher standards of Health Science Education, from time to time against the minimum standards laid down by the All India Council of concerned Faculty for Health Science Education.

4. Notwithstanding anything contained in this Statute a teacher of any category other than Principal in any Faculty appointed in accordance with the provisions of the Statutes/Ordinance of any University prior the date of coming into force of this statutes shall be entitled to continue as a teacher in the concerned category.

STATUTE NO-XV

Holding of the Convocation to confer Degrees

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Holding of the Convocation to Confer Degrees) Statute, 2013.

2. Definition.—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. (1) Convocation for the purpose of conferring graduate, postgraduate, Ph.D., honorary degrees and other higher degrees and making awards to meritorious students shall ordinarily be held every year in the month of December at the head quarters of the University and shall be called Annual Convocation.

(2) A special convocation may also be held at such time as may be found necessary or convenient. The actual date of the Convocation in each case shall be fixed by the Vice-Chancellor with the approval of the Chancellor.

(3) Ordinarily not less than four weeks’ notice shall be given by the Registrar for holding Convocation. The notice shall be given wide publicity and circulated to institutions affiliated to the University, so that they may inform the concerned students. This period may however, be reduced to ten days in the case of special convocation or in any other case where such a course is considered expedient by the Vice-Chancellor.

(4) The candidates desiring to receive degree in person must apply to the Registrar before the day fixed for the Convocation.

(5) Every degree shall duly signed of the Vice-Chancellor. The date on the degrees, whether to be awarded at the convocation or otherwise, will be the same as the date of the University Convocation or any date fixed by the Academic Council.

4. The Chancellor, Vice-Chancellor, Deans of Faculties, Members of the Court, Executive Council, Academic Council and the Registrar shall wear the academic costumes of the University or the gowns or any other costumes prescribed by the Executive Council.

(1) Candidates at the Convocation shall put on the academic robe prescribed by the Executive Council and no candidate shall be admitted to the Convocation without the academic robe prescribed by the University.

(2) Degrees will be distributed to the candidates attending the convocation.

(3) Such candidates as are unable to present themselves in person at the convocation shall be sent their degrees in absentia at their addresses available in the University.

5. The Chancellor, the Vice-Chancellor, the Deans of the Faculties, Members of the Court, Executive Council and Academic Council and the Registrar shall assemble at a place notified at the appointed hour and shall walk in procession in the following order to the convocation ground :

- (1) The Registrar.
- (2) Members of the Academic Council.
- (3) Members of the Executive Council.
- (4) Members of the Court.
- (5) Deans of Faculties.
- (6) The Vice-Chancellor.
- (7) The Chief Guest, if any.
- (8) The Chancellor.

6.(1) The Chancellor, the Chief Guest, the Vice-Chancellor, the Chief Minister, the Minister, Medical Education and any other Minister, if present, Deans of the Faculties, members of the Executive Council, the Registrar and such other persons named given by the Executive Council shall take their seats on the dais and the members of the Court and the Academic Council on both sides of the dais in places reserved for them.

(2) The candidates present at the Convocation shall take their seats at the places reserved for them before the procession enters in the convocation hall/pandal. As the procession enters the convocation hall/pandal, all those present shall rise and remain standing until the members of the procession have taken their respective seats.

7. The Registrar shall declare opening the convocation with the permission of the Chancellor or in his absence with the permission of the Vice-Chancellor. On a request from the Vice-Chancellor, the Chancellor and in the absence of the Chancellor the Vice-Chancellor will permit the candidates to be presented. The following shall be the order of the presentation :

- (1) Honorary Degrees, if any
- (2) Ph.D.
- (3) Superspeciality
 - (a) Medical group in alphabetic order
 - (b) Surgical group in alphabetic order
- (4) All Gold medalist of Post-graduate Degrees and Under-graduate Degrees in the following order :—
 - (a) Medicine,
 - (b) Dental,
 - (c) Ayurveda,
 - (d) Homeopathy,
 - (e) Nursing,
 - (f) Siddha,
 - (g) Unani,
 - (h) Yoga,
 - (i) Allied sciences

8. The Deans of respective Faculties shall present all the candidates for various degrees under the Faculty and the Vice-Chancellor shall admit the candidates present also in absent to the degrees concerned. The citation for the Deans of the Faculty and the Vice-Chancellor shall be as prescribed by the Executive Council. Recipients of the Degrees shall remain standing while the Dean and the Vice-Chancellor admit the candidates to the Degree.

9. In the case of conferment of honorary degrees the citation admitting the recipient to the degree may be modified by the Chancellor in a suitable manner. After the degrees have been conferred the Registrar shall declare the number of the degrees/diplomas that have been conferred on regular and private candidates present at the convocation and also in absentia.

10. The Chancellor or in his absence the Vice-Chancellor shall then present the medals and prizes to the recipients of the medals and prizes who shall be called individually by the Registrar and shall stand before the Chancellor or the Vice-Chancellor, as the case may be. The names of the recipients shall be read out by the Registrar.

11. The Chancellor or in his absence the Vice-Chancellor shall request the Chief Guest to address the Convocation.

12. The Convocation address will thereafter be delivered. The Registrar, with the permission of the Chancellor and in his absence with the permission of the Vice-Chancellor, will declare the convocation closed and the thereafter leave the Convocation hall.

13. Notwithstanding anything contained in the Statute the Chancellor may suspend holding of the Annual Convocation or Convocations. In such case the degree will be sent to the candidates duly signed by the Vice-Chancellor at their addresses.

14. Every graduate shall be bound to pay such fees as may be determined by the university from time to time:

- (1) The costume / badge fee

- (2) The convocation fee
- (3) Fee for getting Degree in person

15. In case of any arrangement which is not prescribed in this statute or any kind of dispute decision of the Chancellor or in his absence Vice-Chancellor shall be final.

STATUTE NO-XVI

Conferment of Honorary Degrees

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Conferment of Honorary Degrees) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011) ;
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. A proposal for conferment of honorary degree may be made by the Standing Committee of the Academic Council unanimously. It shall be placed before a committee consisting of the Vice-Chancellor, a nominee of the Chancellor and the Dean of the Faculty concerned. If the Committee unanimously recommends that an honorary degree be conferred to any person on the ground that he/she is, in its opinion, a fit and proper person to receive such degree, its recommendation shall be placed before the Academic Council. On approval by the Academic Council it shall be sent before the Executive Council.

4. If not less than two-third of the members of the Executive Council recommend and when their recommendation is supported by a majority of not less than two-thirds of the members present and voting at a meeting of the Court, such majority being not less than one-half of the total membership of the Court for that time the Court may, if such recommendation is confirmed by the Chancellor, confer on such person the honorary degree so recommended :

Provided that in cases of emergency, such proposal may be confirmed by Chancellor if the said Committee’s recommendation has been approved by the Executive council.

STATUTE NO-XVII

Administration of Endowments and the Institution of Fellowships, Scholarship, Studentships, Exhibitions, Bursaries, Medals, Prizes and Other Awards

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Administration of Endowments and the Institution of Fellowships, Scholarship, Studentships, Exhibitions, Bursaries, Medals, Prizes and Other Awards) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) "Statute" means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The Executive Council shall keep administration of all endowments.

- (1) The Executive Council may accept donations for the creation of an endowment for the award of fellowships, scholarships, studentship, exhibitions bursaries, medals and other awards of a recurring character.
- (2) All offers of bequests, donations and endowments and prizes shall be accepted as per the rules framed for this purpose from time to time by the Executive Council.
- (3) The value of the endowment is necessary for instituting the award shall be prescribed by the Executive Council, but the amount of donation shall not be less than Rs. 50,000/-
- (4) In case of each endowment accepted by the Executive Council, the Executive Council shall make a Regulation giving the name of the donor, initial value and purpose of the endowment.
- (5) The Academic Council shall prescribe the conditions of award after consulting the donor and attention shall be given to his/her wishes as far as possible.

4. All accepted donations/ endowments shall be secured by investment in securities described in the Indian Trusts Act, 1882 (No. 1 of 1882), or in immovable property in India. Money received in cash shall be invested in any of the securities referred to above or in fixed deposits in a Scheduled Bank, as defined in the Reserve Bank of India Act, 1934 (No. 2 of 1934), so as to receive maximum interest, at the discretion of the Executive Council.

5. The award shall be made out of the annual income accruing from the endowment. Any unspent balance or surplus which may accumulate from the prize not being awarded during any year or the unspent balance accumulating for any other reason, shall be added to the corpus of the endowment.

6. Gold medals shall be awarded every year, having emblem of the University along with appropriate cash prize wherever possible.

7. The University shall not accept any endowments that restrict the benefits of that endowment to any particular caste, creed or community. (Exception to this endowments shall be accepted for general weaker sections such as women and backward classes).

8. The annual realization from the endowments or donation shall be subject to a deduction of 10% as of administrative charges.

9. No candidate shall be eligible for any Fellowship, Prize, Medal or other Awards, who presents himself for the examination to which the award relates, more than two years after the expiry of minimum period prescribed by the regulation governing that examination. The computation of the period for the purposes of this regulation shall begin from the date of the passing of lower examination which qualifies the candidate to enter in the course for higher examination.

10. The name of the candidate to whom the prize is awarded shall be declared and intimated to the donor.

11. If an endowment is accepted to institute a prize/medal for a particular educational programme and if the University decides to modify, change or delete that programme, the University shall use that endowment to institute a prize for some other programme, with the permission of the Donor.

12. The University shall take a review of all endowments after every four years and may change the amount of the prize of those endowments the corpus fund of which has grown and other allied matters. A committee consisting of the following may be formed for this purpose.—

- (a) Vice- Chancellor - Chairperson
- (b) Dean Student Welfare
- (c) Registrar
- (d) Finance and Accounts Officer
- (e) Controller of Examinations

13. The person or the Institutions or the Trust who gives the donations and endowments shall be entitled for the tax exemption as per Rules of Government of India from time to time.

STATUTE NO-XVIII

Mode of Determining Seniority of Teachers of the colleges/ Institutes Affiliated with the University

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Mode of Determining Seniority of Teachers of the colleges/ Institutes Affiliated with the University) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. For the purpose of the Act, the Statutes and Ordinances, the seniority of teachers relating to—

- (a) the teaching Departments/Schools of Studies and College maintained by the University; and
- (b) the colleges, affiliated to the University shall be respectively in order in Groups A and B as below :

Group - A

- (i) Professor,
- (ii) Reader,
- (iii)* Lecturer.

Group - B

- (i) College Professor,
- (ii) Full time and salaried Principal other than College Professor,
- (iii) Reader,
- (iv) Assistant Professor,
- (v) Lecturer.

4. Service' shall mean service relating to a Teaching Department/School of Studies or College maintained by or affiliated to the University and/or in a Teaching Department/School of Studies or College maintained by or affiliated to any other University, established under any Central or State Act.

5. If a teacher who holds a permanent post in the University or a college is on leave or deputation, he/she shall be deemed to be in continuous service in his/her post during the period of such leave not exceeding six months on any ground whatsoever.

6. (a) The inter se seniority of full time salaried Principals other than College Professors shall be determined in accordance with the provisions of the Statute relating to the Seniority of Principal.

(b) The seniority of a Professor, College Professor, Reader, Reader in College, Assistant Professor or Lecturer shall be determined in accordance with the length of continuous service of such person in the cadre concerned taken together with the length of continuous service in a cadre which is equivalent to or superior to the cadre concerned :

Provided that where a Principal/Dean is included in the cadre of College Professor in accordance with the provision of the Act, his/her seniority as College Professor shall be determined in accordance with :

- (i) The length of continuous service as such Principal/Dean if he/she was not a College Professor prior to his/her appointment as such Principal.
- (ii) The length of total service as a College Professor and as such Principal /Dean thereafter if the Principal/Dean was a College Professor prior to his/her appointment as such Principal/Dean.

7. If the length of service of two or more teachers in any cadre calculated in accordance with paragraph (3) above is equal, their inter se seniority shall be determined in accordance with the length of continuous service in the cadre immediately below, if any.

8. If after calculation in accordance with paragraph (4) above, the inter se seniority of two or more teachers in any cadre is equal, their inter se seniority shall be determined in accordance with the length of continuous service in the cadre, if any, immediately below the cadre considered under paragraph (4) above.

9. If after calculation in accordance with the foregoing provisions to the extent possible, the inter se seniority of two or more teacher in any cadre is equal; their inter se seniority shall be determined by the total period of continuous service as a teacher in any cadre.

10. If after applying the foregoing provisions to the extent possible, the seniority of two or more teachers is equal, their inter se seniority shall be determined in accordance with seniority in age.

STATUTE NO-XX**Seniority of Heads of Departments in Affiliated Colleges**

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Seniority of Heads of Departments in Affiliated Colleges) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011) ;
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The inter-se seniority of Heads of Departments in affiliated college shall be in the order of cadres given below :

- (i) College Professor;
- (ii) Full time and salaried Principal other than College Professor;
- (iii) Reader;
- (iv) Assistant Professor;
- (v) Lecturer.

4. (1) The seniority of the Heads of Departments under each of the categories specified above shall be determined by their seniority as a College Professor, Principal, Reader, Assistant Professor or Lecturer in a College as the case may be.

(2) If the Head of a Department in a College proceeds on leave for a period exceeding six months his/her office shall be deemed to have become vacant and the Principal of the College shall communicate to the Registrar without delay the name of the successor Head of the Department.

STATUTE NO-XXI**Preparation and Maintenance of Seniority Lists**

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Preparation and Maintenance of Seniority Lists) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. It shall be the duty of the Registrar to prepare and maintain in respect of Principals, Professors, College Professors, Readers in Colleges, Assistant Professors and Lecturers to complete and up to date seniority lists in accordance with procedure laid down in the clauses hereinafter mentioned.

4. All Principals/Professors/Readers/Assistant Professors/Lecturers in Colleges/University Teaching Departments shall apply for inclusion of their names in the cadre concerned in the prescribed form given in the ‘Appendix’, through the Principals of the College/Head of Teaching Department by 15th October each year at the latest. Persons whose applications complete in all respect are supported by the necessary evidence are not received by the prescribed date shall not be considered for inclusion in the list :

Provided that the teachers who had applied once need not apply again till their respective cadre is changed or altered by transfer or promotion. The Principal/Head of Teaching Department

shall communicate the names of teachers who leave the institution to the Registrar. The Registrar shall prepare separate lists showing the inter-se seniority of Principals, Professors, College Professors, Readers, Readers in Colleges, Assistant Professors and Lecturers respectively and publish the said lists for inviting objection.

5. The publication of the lists for objections shall be made on or before the 15th November succeeding and publication shall be caused by forwarding two copies of the lists to each College/Teaching Department for displaying one copy on the staff notice board of the College/Teaching Department and the other for making it available for reference to the members of the teaching staff concerned.

6.(a) Any Principal/Professor/College Professor/Reader/Reader in College/Assistant Professor/ Lecturer who feels aggrieved by any entry or deleting of the name made in the said list may, within twenty days from the date of publication of the list on the staff notice board of the College/Teaching Department, file an objection stating his/her reasons and evidence in support of his/her contention addressed to the Registrar. If the objector desires to be heard in person, he/she shall specifically state the intention.

(b) The Vice-Chancellor shall, before the 30th November appoint a committee consisting of a member of the Executive Council and two Principals/ Professors other than those who are members of the Executive Council for dealing with objections that may be filed in respect of the seniority list. The Vice-Chancellor shall nominate one of them to be the Convener of the Committee.

(c) The Committee appointed by the Vice-Chancellor shall meet at such time and on such dates as the Convener of the Committee may fix.

(d) The Committee may, where necessary, call for the parties concerned, or inspect any document, file, register or record in the possession of the University or any college maintained by or affiliated to the University.

(e) The Committee shall provide reasonable opportunity to hear the objector, if the objector desires to be heard in person.

(f) The Committee shall report its decision as also the reasons therefor.

(g) All decisions of the Committee shall be taken by majority and communicated to the Registrar not later than 24th December positively.

7. (a) The seniority list as finalised by the Committee shall be published by the Registrar not later than 31st December each year by forwarding two copies to each College/Teaching Department for displaying one copy for making it available for reference to the members of the staff of the college

(b) The objector may on request obtain a copy of the decision of the Committee from the Registrar on payment of Rs. 1500/-

8. The list so published finally shall remain in force from 1st January to 31st December of the Calendar year following the publication of such list.

9. Notwithstanding anything contained in the Statutes the dates respectively for the submission of the application in the form appended to this Statute to the Registrar for inclusion of name in the seniority list by Principals/Professors/ Readers/College Professor/Readers in colleges/Lecturers, for publication of lists, for objections, for filing objection to the lists, for appointment of Committee to deal with objections, for communication of the decision of the committee on objections, and for publication of finalized seniority lists in the case of the first year of preparation of seniority lists immediately following the date on which the Adhiniyam came into force, may be determined by the Kulpati after considering such curriculum as may necessitate.

10. A copy of the finalised list may be supplied to a person it any on payment of Rs. 150/- only or on such cost as may be decided by the Registrar, in consultation with the Government.

APPENDIX

MADHYA PRADESH UNIVERSITY OF HEALTH SCIENCES, HEAD OFFICE JABALPUR

**(Application for inclusion in the list of Principals/Professors/
College Professors/Readers/Assistant Professors/Lecturers)**

To,

The Registrar,
madhya pradesh university of health sciences,
Jabalpur (M.P.) - 482001

Sir,

I request that my name be included in the seniority list of..... (designation) The particulars of my service are as under:

1. Name :
2. Date of birth :
3. Post held at present :
4. Date from which present post is held :
5. Scale of pay in the present post :
6. Academic qualifications :
7. Teaching experience : Years Months
Degree Classes :
Post-graduate Classes :
8. Teaching posts held (chronologically) prior to appointment to the present post :

Designation of Post (1)	Name of institution in which post was held (2)	Period (3)		Scale of Pay (4)
		From	To	

Note.—(1) A teacher in service under the Madhya Pradesh Government need not to give the name of various colleges to which he/she was posted in any particular capacity.

Note.—(2) Change in the cadre (e.g. Lecturer/Assistant Professor, Reader, Professor) together with the date of appointment in each case, the pay scale should be clearly stated.

I declare that the particulars given are correct.

Signature of applicant

Place :
Date :

Full Name.....
Designation.....
College/Teaching Dept.....

By order and in the name of the Governor of Madhya Pradesh,
Secretary.

Govt. of Madhya Pradesh
Department of Medical Education

STATUTE NO-XXII

Election of the Teachers of University Representative of the Court

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Election of the Teachers of University Representative of the Court) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of Section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. **Election for Court.**—

- (1) The election of representatives under Group B of sub-section (1) of Section 21 shall be conducted by simple majority voting system.
- (2) Every teacher whose name is included in the final Electoral roll for election under each of the item under Group B of the said sub-section shall be an elector qualified to be a candidate and vote at the election.

4. Whenever it is necessary to hold an election under all or any item of Group B of sub-section (I) of section 21, the Registrar shall,—

- (a) publish by affixing a copy thereof on the office notice board of the University and dispatch by registered post two copies thereof to each affiliated college. Teaching Department and School of Studies for display on the notice board of the institution for reference;
- (b) call upon the electors to elect members on the Court specifying the item/items of sub-section (I) of section 21 under which members are to be elected and the number of members to be elected under each item;
- (c) fix the last date for receipt of claims for inclusion of any name not included in the provisional electoral roll or for correction of a name and of objection to the inclusion of any name appearing in the provisional electoral roll, such date shall be twenty one days from the date of publication of the notice
- (d) fix the date of inquiry into claims and objections to the provisional electoral roll, which shall not be later than three days from the last date for the receipt of claims and objections;
- (e) fix the last date for the publication of the final electoral roll in the same manner as that for provisional electoral roll such date being not later than seven days from the date fixed for inquiry into claims and objection to the provisional electoral roll;
- (f) fix the last date for the receipt of nominations at the University office, which shall not be later than twenty one days from the last date for the publication of final electoral roll;
- (g) fix the date and time for the scrutiny of nominations, which shall not be later than three days from the last date for the receipt of nominations;

- (h) fix the last date for the withdrawal of candidates which shall be the third day after the date for the scrutiny;
 - (i) fix the last date for dispatch of ballot paper to the elector which shall not be later than seven days from the last date for the withdrawal of candidate;
 - (j) fix the place, date and hours for poll which shall not be later than seven days from the date of withdrawal of the candidate;
 - (k) fix the date and place for the counting of votes. Such date being not later than three days from the date of the poll.
5. (a) The registrar shall prepare separate provisional electoral roll for election under each item in Group B of sub section (I) of section 21 showing the names of teachers in each College/Teaching department/School of Studies under the category concerned as on the date of issue of notice.
- (b) The provisional electoral shall be published by the Registrar simultaneously with the notice under statute 2 of this statute by affixing a copy thereof on the notice board at the University Office and dispatch two copies thereof to every principal of an affiliated college and Head of University teaching department /School of Studies for display on the notice Board of the Institution concerned for reference by teachers.
6. (a) Any teacher whose name is not included in the provisional electoral roll may make a claim in Form-1 for inclusion of his name in the electoral roll.
- (b) Any teacher whose name has not been correctly given in the provisional electoral roll may make a claim in Form-2 for correction of his name.
- (c) Any teacher whose name is included in the provisional electoral roll may object in Form-3 in connection with the inclusion of the name of any person at the roll.
- (d) All claims and objection shall be delivered to the Registrar in person or by registered post in a sealed envelope with "claims and objections" written thereon.
7. (a) all claims and objections to the provisional electoral roll shall be scrutinized and enquired into by a committee consisting of two Deans of faculties nominated by the Vice-Chancellor and the Registrar at the University office on the date fixed for the purpose and the teacher filling the claim or the objection Shall be entitled to be present at such scrutiny. The Vice-Chancellor shall appoint one of the Deans to be the Chairman of the Committee.
- (b) the decision of the Committee on the claims and objections shall be recorded in writing and notified before the day of the enquiry.
- (c) an appeal by the person preferring a claim or raising an objection shall lie with the Vice-Chancellor, whose decision in the matter shall be final. Every appeal shall be lodged in writing with the Registrar within two days of the date of the decision appealed against.

- (d) after all claims and objections have been decided, the provisional electoral roll shall be revised, if so need, and the final electoral roll shall be prepared and published by the Registrar.

8. The Registrar shall send to every College/Teaching Department/school of Studies blank nomination forms in Form-4 not later than the date fixed for enquiry into claims and objections to the provisional electoral roll with the request that the forms be supplied to teachers who may require them. Teachers may obtain blank nomination forms from the University office.

9. On or before the date appointed under clause (f) of this Statute, each candidate shall:—

- (a) either in person or by his proposer or seconder, between office hours, deliver in a sealed cover marked “Nomination Paper” to the Registrar or his nominee a nomination paper completed in Form-4 appended here-to and signed by the candidate and by two electors also as proposer and seconder, or.
- (b) send by registered post in a sealed cover marked “Nomination Paper” to the Registrar a nomination paper compiled in Form-4 appended hereto and signed by the candidate and by two electors as propose and seconder.

10. Each candidate shall be nominated by a separate nomination paper and not more than one nomination paper shall be delivered or sent in one cover.

11. On receipt of a cover containing nomination paper, the Registrar or his nominee shall enter on the cover the time and date of receipt of the paper and shall initial the entry. Nomination papers received after office hours on the date fixed under clause (f) of this Statute above, shall be treated as rejected.

12. On the date and time fixed for scrutiny of nomination under clause (f) of this Statute of this Statute, the candidates and their proposers or seconders, but no other person, may attend the office of the Registrar and the Registrar shall give them all reasonable facilities for examining the nomination papers of all candidates which have been received by him within the time and in the manner laid down in 8 above.

13. (1) The Register shall examine the nomination papers and shall decide all objections which may be made for any nomination, and may, either on such objections or on his own motion after such summary enquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds:—

- (a) that the candidate is not qualified or is disqualified for being chosen to fill the seat under any of the provisions of the statutes (8) and (9) of this statutes;
- (b) that there has been a failure to comply with any of the provisions of (8) and (9) of this Statute;
- (c) that the signature of the candidate or the proposer or seconder on the nomination paper is not genuine;
- (d) that the cover containing the nomination paper is not sealed.

- (2) Nothing contained in clause (b) or (c) of sub-statute (1), of this Statute shall be deemed to be authorize the rejection of the nomination of any candidate on the ground of irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

- (3) The Registrar shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, he shall record in writing a brief statement of the reason for such rejection. The decision of the Registrar shall be final.
- (4) Immediately after all the nomination papers have been scrutinized and the decisions accepting or rejecting the same have been recorded, the Registrar shall prepare a list of candidates whose nominations have been found valid and affix it on notice board of his office.
- (5) The said list shall contain the names of candidates in alphabetical order and the names of the colleges/Teaching Department or school of studies to which they belong.
14. 1. Any candidate may withdraw his candidature by a notice in writing duly signed by him and delivered to the Registrar either by such candidate in person or his proposer or seconder, during office hours on or before the last date fixed for withdrawal under clause (g) of sub Statute (3) of this Statute.
2. No person who has given a notice of withdrawal of his candidate under sub-statute (1) shall be allowed to cancel the notice.
3. The Registrar shall, on receiving notice of withdrawal under sub-statute (1) as soon as may be, cause a notice of the withdrawal to be affixed on notice board of his office.
15. Immediately after the expiry of the period within which candidature may be withdrawn, the Registrar shall prepare and affix on his office's notice board a list of contesting candidates who are included in the list, the validity of nominated candidate and who have not withdrawn their candidature within the said period. The list shall contain the names of contesting candidates together with the names of colleges, teaching Departments or schools of Studies to which they belong the same order as the list of validly nominated candidates under sub Statute (12) of this Statute.
- (1) If the number of contesting candidates is equal to or less than the number of seats to be filled in, all the candidates shall, subject to the provisions appearing hereafter be declared elected:

Provided that if there is more than one contesting candidate from any University Teaching Department, Schools of Studies or affiliated College, one of them shall be declared elected on the basis of election held by secret ballot.

- (2) Seats not filled in and for which there are no eligible contesting candidates shall be declared vacant and shall remain unfilled till the next constitution of the Court.
16. If the number of contesting candidates is more than the seats to be filled in, voting shall take place and the requisite number of candidates shall be elected in accordance with the provisions of the Act.
17. Where voting is necessary the names of contesting candidates, from whom the elector has to elect, shall be printed on the ballot paper in the same order as in the list of valid nominations affixed on the University office notice board together with the names of college, Teaching Department or School of Studies to which they belong. The ballot paper shall show at the top, the item under which election is to take place and number of seats to be filled. Each ballot paper shall bear the signature of the Registrar.

18. (a) every elector shall have as many votes as there are seats to be filled through voting.
- (b) an elector in giving his vote shall place on his ballot paper a cross mark (x) in the space opposite the name of the candidates for whom he wishes to vote.
19. (a) one ballot paper in Form 5 and two covers in Form 6 and 7 (hereinafter referred to as covers 6 and 7 respectively) shall be sent by the Registrar by registered post to every elector on or before the last date fixed for the purpose.
- (b) the Registrar shall record or cause to be recorded the serial number of each ballot paper against the entry rating to that elector in the copy of the final electoral roll.
20. (1) After recording his vote on the ballot paper, the elector shall place it in the Form 6 and then seal the cover and place it in Form 7 and seal the letter cover and Form 7 shall bear the name and electoral roll number of the elector.
- (2) The elector shall then take the sealed Form 7 to an Attesting Officer who shall be:—
 - (a) a Statutory Officer of the University ;
 - (b) a Principal of a college; or
 - (c) a Professor or College Professor, or Reader or Assistant Professor in a College; Teaching Department or School of Studies;
 - (d) a Magistrate; or
 - (e) a Gazetted Officer of the state of the Madhya Pradesh or of Central Government and place his signature at the space provided for the purpose on the Form 7 in the presence of the Attesting Officer The Attesting Officer shall then attest to the identity of the elector by placing his signature and the date of signature, his designation and the name of the city or town in which his headquarters are located with seal at the space provided on the Form for the purpose. The Form shall then be delivered to the Registrar by the electors personally or sent to him by registered post. Not more than one ballot paper shall be sent in one set of Forms. No ballot paper shall be sent by messenger. On receipt of a ballot paper the Registrar shall endorse on the Form the date and in case of a ballot paper received on the last date for receipt, the hour of receipt and place it in a locked box. Any ballot paper received after office hours on the last date fixed for return of ballot papers shall be rejected and kept in a separated locked box.
21. A ballot paper shall be void, if—
 - (a) the elector has given more votes than the number of seats to be filled up; or
 - (b) it is signed by the elector; or
 - (c) it is unmarked or void for uncertainty; or
 - (d) the Form 7 is not signed by the elector; or
 - (e) in the case of which the signature on the Form 7 is not duly attested; or
 - (f) the Form 7 is not duly sealed:

Provided that where there is uncertainty in respect of any vote / votes but not in respect of all votes given by the elector, the ballot paper shall be void to the extent of the uncertainty only.

22. All proceedings for counting of votes shall be conducted in the presence of a Committee of three persons appointed by the Vice-Chancellor. Every elector shall have the right to be present at the proceeding:

provided that in the opinion of the Registrar, no disturbance of the proceedings is caused thereby.

23. On the date and at the place fixed for counting of votes the Registrar shall open the box containing the Form of ballot papers. He shall then examine the Form 7 and shall reject the ballot papers, if—

- (a) Form 7 is not duly signed by a person authorized to vote at the election;
- (b) signature on the cover is not duly attested; or
- (c) Form 7 is not duly sealed:

The Form 7 rejected under this Statute shall not be opened and it shall be kept in a separate parcel. He shall then remove the Form 7 and place together all Form 6. He shall thereafter open the form 6 and scrutinize the ballot papers. He shall reject the ballot papers, which are invalid under this Statute. He shall count the votes cast in favor of different candidates in the remaining ballot papers.

24. (1) After all votes are counted, the Registrar shall prepare a list of Candidates arranged in order of votes received. The candidate obtaining the highest number of votes being placed first in the list:

Provided that if there are two or more candidates from any University Teaching Department, School of Studies or College, only the candidate getting the highest number of votes among candidates from each such Teaching Department, School of Studies or college shall be included in the list and the rest shall be excluded.

- (a) If the seats for which voting has taken place include any seat/seats reserved for any particular category of contesting candidates, contesting candidates bellowing to such category, equal in number to the number of seats reserved for such category and highest in the above list shall be declared elected.
- (b) After the result of election to the reserved seats is declared, contesting candidates equal in number to that of remaining seats to be field and highest in the list amongst the candidate not declared elected under clause (a) above shall be declared elected.
- (c) When two or more candidates have secured equal votes, the result of the election shall be decided by drawing lots.

(2) If the seats for which voting has taken place does not include any reserved seat/seats, contesting candidate equal in numbers to the number of seats to be field shall be declared elected in the order in which their names appear in the aforesaid list.

(3) An petition against any election may be presented to the Vice-Chancellor by any candidate or elector within ten days from the date of publication of the result of the election on the notice board of the University The Vice-Chancellor 's order on the petition shall be final.

25. The terms of the teachers elected under class (ix) and (x) of group-B for the Court shall be coterminous with the terms of the Court.

FORM-1

(Election of representatives on the Court of University under item..... of sub- section (1) of section 21 of the Act)

Claim Application for inclusion of Name in the Electoral Roll

To,

The Registrar,

.....University,

.....

Sir,

I am a (Designation e.g. Professor/Asst. Professor/Lecturer)
.....in.....College/Teaching Department/School of Studies
since..... (Month & Year).....

I request that my name be included in electoral roll for election under itemof this sub-section (1) of section (21) of the Act.

Signature.....

Place.....

Full Name

Date

Designation

Name of Institution Where employed...

.....

I.....Principal of.....College/ Head of Teaching
Deptt. or School of Studies ofcertify that shriis
a.....(designation).....

.....in..... College/ Teaching Deptt. or School of Studies of
since.....(Month & year).....

Signature

Place.....

Full Name

Date

Designation

Name of Institution

FORM 2

(Election of representation on the Court ofUniversity under item.....of subsection (I) of Section 21 of the Act)

Claim for Correction of Name

To.

The Registrar,

.....University

.....

Sir,

I submit that the entry relating to myself which appears at serial no.....of the provisional electoral roll as “.....” is not correct. It should be corrected to read as follows

“.....”

Signature.....

Place.....

Name

Date

Full Designation

Name of Institution Where employed...

FORM 3

(Election of representation on the court ofUniversity under itemof subsection (1) of section 21 of the Act)

objection of inclusion of name

To,

The Registrar,

.....University

.....

Sir,

I object to the inclusion of the name of of serial No.....of the provisional electoral roll for the following reason:

Reason:

I hereby declare that the facts mentioned above are true to the best of my knowledge and belief. My name has been included in the provisional electoral roll at serial No.....

Signature.....

Place.....

Name

Date

Full Designation

Name of Institution Where employed...

FORM-4
NOMINATION FORM

(Election of representatives for the Court of..... University under itemof sub-section (I) of section 21 of the Act)

I.....(Full Name).....purpose the name of Shri/Smt/Kumari
.....whose name appears at serial No..... of the final electoral roll as
member of the Court ofUniversity under itemof subsection (1) of section 21 of
the Act.

Signature

Full Name

Serial No. in the Final Electoral roll

Name of Institution Where employed.....

.....

I.....(Full Name).....Second the above proposal

Signature

Full Name

Serial No. in the Final Electoral roll

Designation

Name of Institution Where employed.....

.....

I.....(Full Name).....give my consent to my nomination as a candidate for a
seat on the Court ofUniversity under itemof sub-section (I) of Section 21 of the Act.

Signature

Full Name

Serial No. in the Final Electoral roll

Designation

Name of Institution Where employed.....

FORM 5

S.No.....

.....University.....

Ballot paper

Election of (Category of teacher)to the court under item No.in group B of subsection (1) of section 21 of the Act.

Total number to be elected

Number of seats referred for

(i).....

(ii)

S.N. Vote (1)	Number of Candidate (2)	Institution where employed (3)	Name of Institution Government/ Non Government/Women's Teaching Department Schools of Studies (4)

Note:—

- (1) The Elector has as many vote as the number of seats to be filled.
- (2) While voting the elector should bear in mind the number of seats reserved for any special category.
- (3) The elector should put a cross mark(x) in the vote column in the blank space against the name of the candidate to whom he wishes to vote.
- (4) Not more than one person shall be elected from any University)/Teaching Department, School of Studies or College.
- (5) The elector should not put his signature on the ballot paper

FORM 6

- (a) This Form must be duly sealed.
- (b) This Form must contain only one Form 5.
- (c) Form containing Ballot Paper.
- (d) Please do not sign or put any other Identification mark

FORM 7

Registered Letter

(The Form must be sealed.)

It should contain only one Form 6)

From:

Signature of Voter:.....

Name of Voter.....

S.N. in final Elector roll.....

Address.....

Shri.

Registrar,

Signed in my presence

Date.....

Signature of Attesting Officer.....

City.....

University Designation.....

Seal.....

STATUTE NO-XXIII

Election of Registered Graduates for the Court
(Refer section 21 sub-section (1) item (xiv) of the Act)

1. Short title.—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Election of Registered Graduates for the Court) Statute, 2013.

2. Definition.—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. Manner of Election.—The election of representative of the Court by the registered graduates of the University from amongst themselves under item (xiv) of sub-section (1) of section 21 of the Act shall be in accordance with the system of proportional representation by means of single transferable vote.

4. Elector:—

- (a) Every person who is a registered or re-registered graduate ninety days prior to the date of election fixed by a notice issued under this Statute shall be qualified to stand as a candidate and vote at the election of representative of registered graduate on the Court under item (xiv) of sub-section (1) of section 21.
- (b) No salaried employee of any University or any college within the State shall be eligible for the election.

5. (a) Nominations and Fixing of Programmes:—Wherever it is necessary to hold election of representative of registered graduates on the Court, the Registrar shall by notice published by affixing a copy thereof on the Notice Board of the University and in such newspaper, as the Vice-Chancellor may direct to-

- (i) declare the last date for registration or re-registration as Registered Graduate, which shall entitle a person to stand as a candidate for and vote at the election, such last date being ninety days prior to date of election.
- (ii) call upon the Registered Graduate who are registered on or before the last day fixed in para (i) above to elect members to the Court specifying the number of members to be elected.
- (iii) fix the last date for receipt of nomination, such last date being the forty fifth day after the date of publication of notice.
- (iv) fix the date and time for scrutiny of nomination which shall be fifth day after the last date for receipt of nominations.
- (v) fix the last date and time for the withdrawal of candidature which shall be tenth day after the date for scrutiny of nominations.
- (vi) fix the place, date and hour for poll for voters.
- (vii) fix the place, date and hour for counting of ballot papers which shall not be later than two days after the date of the poll.

Note: (1) The last date under para (i) ordinarily be a working day

- (2) If the day fixed under any of the clause above except para (i) is a holiday, the immediately succeeding day which is not a holiday shall be fixed for the purpose.

- (b) Availability of Nomination Papers: - Nomination Paper in form in 'A' appended to this Statute may be obtained from the University Office during the office hours on any working day after the issue of notice under of this Statute.

- (c) Filling of Nomination Forms

On or before the date fixed under clause (iii) of Statute 5 of this Statute, each candidate shall:—

- (i) either in person or by his proposer or seconder, between office hours, deliver in a sealed cover marked 'Nomination Paper' to the Registrar or his nominee a nomination paper completed in Form A appended here to and signed by the candidate and two electors as proposer and seconder, and duly attested, or
- (ii) send by registered post in a sealed cover marked 'Nomination Paper' to the Registrar or his nominee a nomination paper complete in Form A appended hereto and signed by the candidate and by two electors as proposer and seconder and duly attested.
- (d) Each candidate shall be nominated by a separate nomination paper and not more than one nomination paper shall be delivered or sent in one cover.
- (e) On receipt of nomination paper, the Registrar or this nominee receiving the same shall enter on the cover the time and date of receipt of the paper and shall initial the entry. Nomination papers not received during office hours on or before the date fixed under clause (iii) of Statute 5 of this Statute shall be treated as rejected.

6. Scrutiny of Nomination Papers :- On the date and time fixed for scrutiny of nominations under clause (iv) of Statute 5 of this Statute, the candidates, their proposers or seconders but no other person may attend at such time in the office of the Registrar as the Registrar may have fixed and the Registrar shall give them all reasonable facilities for examining the nomination papers of all candidates which have been received by him within the time and in the manner laid in Statute 7 of this Statute.

7. Rejection of Nomination Paper:—

- (a) The Registrar shall then examine the nomination papers and shall decide all objective, or on his own motion, after such summary enquiry, if any, as thinks necessary, reject any nomination on any of the following grounds:
 - (i) that the candidate is not qualified or is disqualified for being chosen to fill the seat under any of the provisions of the Act and the statutes made thereunder :
 - (ii) that there has been a failure to comply with any of the provisions of Statute 7 of this Statute.
 - (iii) that the signature of the candidate or the proposer or seconder on the nomination paper is not genuine;
 - (iv) that the cover containing the nomination paper is not sealed.
- (b) Nothing contained in clause (b) or (c) of sub-statute (1) above shall be deemed authorize the rejection of the nomination of any candidate on the ground of irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

- (c) The Registrar shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement with reasons for such rejection. The decision of the Registrar shall be final.
- (d) List of Validly Nominated Candidates:- Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, the Registrar shall prepare a list of validly nominated candidates, This list shall contain the names in alphabetical order and the addresses of contesting candidates as given in the nomination papers.

8. **Withdrawal of Candidature:-**

- (i) Any candidate may withdraw his candidature by a notice in writing duly signed by him and delivered to the Registrar or his nominee either by such candidate in person or his proposer or seconder, during office hours on or before the date fixed for withdrawal under this Statute.
- (ii) No Person who has given a notice of withdrawal of his candidature under sub-statute (I) above shall be allowed to cancel the notice.
- (iii) The Registrar shall, on receiving notice of withdrawal under sub-statute (1) affix a notice of withdrawal on the notice board of this office.

9. **List of contesting candidates**

- (i) Immediately after the expiry of the period within which candidatures may be withdrawn under clause (v) of this Statute, the Registrar shall prepare and affix on his office Notice Board a list of contesting candidates who are included in the list of validly nominated candidates and who have not withdrawn their candidature within the said period.
- (ii) The said list shall contain the names in alphabetical order and the addresses of the contesting candidates as given in the nomination papers.

10. **Election: -**

- (i) If the number of contesting candidates is equal to the number of seats to be filled, the Registrar shall forthwith declare all such candidates to be duly elected to fill those seats.
- (ii) If the number of contesting candidates is less than the number of seats to be filled, the Registrar shall forthwith declare all such candidates to be elected. The remaining seats shall remain unfilled till the next constitution of the Court.
- (iii) If the number of contesting candidates is more than the number of seats to be filled, voting shall take place in the manner hereinafter provided.

11. **Mention of names of candidates on ballot paper :-**The names of candidates shall be printed on the ballot paper in Form 'B' in the same order as in the list of validly nominated candidates affixed on the University Office's Notice Board under this Statute.

12. **Voting in person:** -All voters shall record their votes in person by poll to be taken as hereinafter prescribed.

13. **Method of casting vote: -**

- (i) Every elector shall have as many preferences as there are vacancies to be filled.
- (ii) An elector in giving his vote; -
 - (a) shall place on his ballot paper the figure I in the space opposite the name of the candidate whom he chooses to give first preference; and
 - (b) may in addition, mark as many subsequent preferences as he wishes by placing on his ballot paper the figures II, III, IV, and so on, in the spaces opposite the names of other candidates in order of preference.

14. **Returning Officer**—The Registrar shall be the Returning Officer for the election and Presiding Officer for the Poll. The Vice-Chancellor shall fix the hours during which the poll will be taken and the hours so fixed shall be published in the notice to be issued under this Statute.

15. **Display of list of contesting candidates:** - Out-side the polling station there shall be displayed on the notice board a copy of the list of the contesting candidates prepared under this Statute.

16. **Design of Ballot Box**—Every Ballot Box shall be of such design as may be approved by the Vice-Chancellor

17. **Voting compartments:—**

- (i) At the polling station there shall be set up one or more voting compartments in which electors can record their votes screened from observation.
- (ii) At the polling station a sufficient number of ballot boxes, copies of the electoral roll and ballot papers shall be provided.

18. **Regulating the entry of electors at the Polling Station :—**The Presiding Officer shall regulate the number of electors to be admitted at any one time inside the polling station and shall exclude therefrom all persons except the polling officers, the candidates and their election agents (one polling agent of each candidate).

19. **Appointment of polling Agent:—**

- (i) The appointment of a Polling Agent shall be made by the Candidate in Form "C" and shall be handed over to the Polling Agent for production at the polling station or the place fixed for the poll.
- (ii) Immediately before The commencement of the poll the Presiding Officer shall demonstrate to the polling agent and other persons present, that the ballot box is empty, and

- (iii) the ballot box shall then be closed, sealed, and secured and placed in full views the Presiding Officer and the polling agents, the ballot box shall, however, be sealed in such a manner that the slit for the insertion of the ballot paper therein remains open.

20. Identification of Electors :—

- (i) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.
- (ii) Each Registered Graduate shall be issued an Identity Card by the Registrar on payment of appropriate fee to be determined by the Executive Council from time to time. The photograph of the Registered Graduate, duly attested by the Registrar shall be affixed on the Identity Card.
- (iii) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorized by him in this behalf, shall check the electors name and other particulars with the relevant entry in the electoral roll, registration number and the name of elector.
- (iv) In deciding the right of a person to obtain a ballot paper the Presiding Officer or the Polling Officer as the case may be, shall overlook merely clerical or printing errors in any entry in the electoral roll if he is satisfied that such person is identical with the elector to whom such entry relates.

21. Issue of ballot paper to electors at the place of Poll: —At the time of issuing a ballot paper to an elector at the place of Poll the Polling Officer shall obtain the signatures of the elector on the counter-foil of the Ballot Paper.

22. Voting Procedure at the place of poll: - The elector on receiving the ballot paper shall forthwith:

- (a) Proceed to the voting compartment;
- (b) There make a mark on the ballot paper as provided in paragraph 18, fold the ballot paper so as to conceal his vote;
- (c) Insert the fold ballot paper into the ballot box and quit the polling station.

23. Closing the Poll: -

- (i) The Presiding Officer shall close the polling station at the hour fixed in that behalf under this Statute and shall not thereafter admit any elector into the polling station.
- (ii) As soon as practicable after the closing of the poll the Presiding Officer shall close the slit of the ballot box, seal it up and also allow any polling agent present to affix his seal. The ballot box shall thereafter be sealed and secured.

24. (1) Counting of Votes:—The counting of votes shall be done by the Returning Officer at the place, date and time fixed under this Statute.

- (2) **Counting to be conducted in the presence of a committee:—**The counting shall be conducted in the presence of a committee of three persons appointed by the Vice-Chancellor. However, the candidate or his agent will have the right to be present at the counting, provided that by their presence, in the opinion of the Returning Officer, no disturbance is caused in the Counting.

25. **Rejection of Ballot Papers.—**The returning Officer shall scrutinize the ballot papers. He shall reject a ballot paper:

- (a) on which the figure I is not marked, or
- (b) on which figure I is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate the preference is intended to apply; or
- (c) on which the figure I and some other figure or figures are set opposite the name of the same candidate; or
- (d) if it is unmarked or void for uncertainty; or
- (e) if it is signed by the elector.

26. **Counting Procedure.—**

- (i) All ballot papers rejected will be kept separately and the remaining ballot papers shall be divided into parcels according to the first preference recorded for each candidate. The Returning Officer shall then count the number of papers in each parcel.
- (ii) In carrying out the provisions of paragraphs hereinafter appearing the Returning Officer shall
 - (a) disregard all fractions;
 - (b) ignore all preferences recorded for candidates already elected or excluded from the poll
- (iii) For the purpose of facilitating the processes prescribed by the Statutes hereinafter contained, each valid ballot paper shall be deemed to be of the value of one hundred.

27. **Ascertainment of Quota.—**The Registrar shall add together the values of the papers in all parcels and divide the total by a number exceeding by one the number of vacancies to be filled. The result increased by one shall be the number sufficient to secure the return of a candidate, hereinafter, called the Quota.

28. **Candidates with quota declared elected.—**If at any time a number of candidates equal to the number of persons to be elected have obtained the quota, such candidate shall be treated as elected and no further steps shall be taken.

(1) Transfer of surplus.—

- (i) Any candidate, the value of whose parcel, on the first preference being counted, is equal to or greater than the quota, shall be declared elected.
 - (ii) If the value of the papers in any such parcel is equal to the quota, the paper shall be set aside as finally dealt with.
 - (iii) If the value of the papers in any such parcel is greater than the quota, the surplus shall be transferred to the continuing candidates indicated on the ballot papers as next in the order of the voter's preference, in the manner prescribed in the Statute.
- (2)
- (i) If and whichever, as the result of any operation prescribed by this Statute, a candidate has a surplus; that surplus shall be transferred in accordance with the provision of this Statute.
 - (ii) If more than one candidate has a surplus the largest surplus shall be dealt with first and the others in order of magnitude, provided that every surplus arising on the first count of votes shall be dealt with before those arising on the second count, and so on.
 - (iii) Where two or more surpluses are equal, the Registrar shall decide, as hereinafter provided in this Statute which shall be dealt with first.
- (a) If the surplus of any candidate to be transferred arises from original votes only, The Registrar shall examine all the papers in the parcel belonging to the candidate whose surplus is to be transferred and divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon. He shall also make a separate sub-parcel of the exhausted papers.
 - (b) He shall ascertain the value of the papers in each sub-parcel and of the unexhausted papers.
 - (c) If the value of the unexhausted papers is equal to or less than the surplus he shall transfer all the unexhausted papers at the value at which they were received by the candidate whose surplus is being transferred.
 - (d) If the value of the unexhausted papers is greater than the surplus, he shall transfer the sub- parcel of unexhausted and the value at which each paper shall be transferred, shall be ascertained by dividing the surplus by the total number of unexhausted papers.
 - (e) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the Registrar shall re- examine all the papers in the sub-parcel last transferred to the candidate and divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon. He shall thereupon deal with the sub-parcels in the same manner as is provided in the case of the sub-parcels referred to in sub-statute (4) of this Statute.

- (f) The papers transferred to each candidate shall be added in the form of the sub-parcel to the papers already belonging to such candidate.
- (g) All papers in the parcel or sub-parcel of an elected candidate not transferred under this Statute shall be set aside as finally dealt with.

29. Exclusion from the Poll.—

- (i) If after all the surpluses have been transferred as hereinbefore directed, less than the number of candidates required has been elected, the Registrar shall exclude from the poll the candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preference recorded thereon. Any exhausted papers shall be set aside as finally dealt with.
- (ii) The papers containing original votes of an excluded candidate shall first be transferred. The transfer value of each paper shall be one hundred.
- (iii) The papers containing transferred votes of an excluded candidate shall then be transferred in the order of the transfers in which and at the value at which he obtained them.
- (iv) Each of such transfer shall be deemed to be a separate transfer but not a separate count.
- (v) The process directed by this paragraph shall be repeated on the successive exclusions one after another of the candidates lowest on the poll, until the last vacancy is filled either by the election of a candidate within the quota or as hereinafter provided.
- (vi) If as the result of transfer of papers under this Statute, the value of the votes obtained by a candidate is equal to or greater than the quota, the transfer then proceeding shall be completed, but no further papers shall be transferred to him.

30. Declaration of elected candidates.—

- (i) If, after the completion of any transfer under this Statute, the value of the votes of any candidate be equal to or greater than the quota, he shall be declared elected.
- (ii) If the value of the votes of any such candidate be equal to the quota, the whole of the papers on which votes are recorded shall be set aside as finally dealt with.
- (iii) If the value of votes of any such candidate be greater than the quota, his surplus shall thereupon be distributed in the manner hereinafter provided, before the exclusion of any other candidate.

31. (i) when the number of continuing candidate is reduced to the number of vacancies remaining unfilled, the continuing candidates shall be declared elected
 - (ii) when only one vacancy remains unfilled and the value of the votes of some-one continuing candidate exceeds the total value of all the votes of the other continuing candidates, together with any surplus not transferred, that candidate shall be declared elected.
 - (iii) when only one vacancy remains unfilled and there are only two continuing candidates, and those two candidates have each the same value of votes and no surplus remains capable of transfer, one candidate shall be declared excluded under the next succeeding Statute, and the other declared elected
32. **Lot to be drawn for exclusion.**—If when there is more than one surplus to distribute, two or more surpluses are equal, or if at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes, weightage shall be given to the original votes of each candidate, and the candidate for whom fewest original votes are recorded shall have his surplus first distributed or as the case may be shall be first excluded. If the values of their original votes are equal, the Registrar shall decide by lot which candidate shall have his surplus distributed or be excluded.
33. **Re-counting.**—
- (a) Any candidate or, in his absence, his Polling Agent may, at any time during the counting of the votes, either before the commencement or after the completion of any transfer of votes (whether surplus or otherwise) requests the Registrar to re-examine and re-count the papers of all or any candidate (not being papers set aside at any previous transfer as finally dealt with), and the Registrar shall forthwith re-examine and re-count the same accordingly.
 - (b) The Registrar in his discretion may re-count the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count:
- Provided that nothing in clause (b) shall make it obligatory on the Registrar to re-count the same votes more than once. .
34. **Election Petition.**—An election petition against any returned candidate may be presented to the Vice-Chancellor by any candidate or elector or his agent authorized in that behalf within fifteen days from the date of the publication of the result of the election on the Notice Board of the University. The Vice-Chancellor's order on the petition shall be final.
35. **Interpretation.**—If any question arises as to the interpretation of this Statute it shall be referred to the Vice-Chancellor for decision and the decision taken by the Vice-Chancellor shall be final and binding.

FORM "A"
NOMINATION PAPER

(For election of the court of.Universityas a representative of
Registered Graduate under section 21(1) (xiv) of the Act).

Name of candidate in full

Registration No. of the Candidate.....

Address of the Candidate

I propose the name of Shriregistration No.to
a candidate for election of the Court from among the Registration Graduates.

Name of the Proposer in full

Registration No. of the proposer

Date

Signature of Proposer

Address.....

.....

I second the above proposal

Name of the Seconder in full

Registration No. of the Seconder

Date:

Signature of the Seconder

Full Address

.....

Consent of the Candidate

I hereby give my consent to the above nomination and agree to stand for the election mentioned by the proposer.

Signature of the Candidate

Date:

Name in Block Letters

Full Address

Registration No.

Certificate

Certified that the proposer, seconder and the candidate have signed in my presence.

Signature of the Attesting Officer

Date:

Address of Attesting Officer.....

Name in Block Letters.....

Designation.....

Note:

1. Each candidate shall be nominated by a separate Nomination Paper.
2. Not more than one Nomination Paper shall be sent in one cover.
3. Nomination Paper should be delivered in a sealed cover to the Registrar or his nominee personally or by Registered Post.
4. Every elector is entitled to nominate as many candidates as there are vacancies.

FORM “B”

BALLOT – PAPER

Serial Number	Registration Number of candidates in the Register of Registered Graduates	Name of Candidates	Order of preference in the vote

FORM "C"**APPOINTMENT OF POLLING AGENT**

Election of Representatives of Registered Graduates on the Court under item (xiv) of section 21 (1) of the Act.

I (Here state the name of the candidate and Registration number), who is a candidate at the above election do hereby appoint:

Shri/Smt. of as a Polling Agent to attend the polling station/the place fixed for poll of the above election.

Signature of the candidate

Place

Date

I agree to act as such Polling Agent

Place

.....

Signature of Polling Agent

Date

..... (Name in Block Letters)

Declaration

of Polling Agent to be signed before the Presiding Officer.

I hereby declare that at the above election, I will not do anything forbidden by Statute No. 23 Election of Registered Graduates to the Court; which I have read:

Date

Signed before me

Signature of Polling Agent

Place

(Name in Block Letters)

Signature of Presiding Officer

STATUTE NO-XXIV

Election of Student Members for the Court

1. **Short title**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya Election of Student Members for the Court Statute, 2013.

2. **Definition**.—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. (1) All elections shall be held by the simple majority vote and by secret ballot.

(2) The Registrar shall be the Returning Officer and he shall conduct the poll.

(3) Whenever any election under Group D of sub-section (I) of Section 21 of the Act is to be held, the Registrar shall by a notification put up on the Notice Board at the University Office, announce the item under which the election is to be held, the number of members to be elected and the date of the poll which shall be no earlier than 21 days from the date of announcement of the date of the poll.

4. (1) simultaneously with the announcement of the date of the poll, the Registrar shall—

- (a) publish the names of the elector separately for election under each item by affixing a copy of the list containing such names on the notice board at the University Office;
- (b) dispatch to every elector by registered post a copy of the notification issued under Statute 5 of this Statutes above, the list of names of the electors and a notice to the electors to be presented at the University office on the date of the poll at a given time to the elect members on the court;
- (2) ‘For journey to the headquarters of the University in accordance with the provisions of sub-para (1) (b) above, Travelling Allowance and Daily Allowance at the rates applicable in case of student participants of Inter-Collegiate tournaments shall be paid to the elector by the college.

5. On the date of the poll at the time fixed under clause (b) of sub-statute (ii) of statute 4 above the Registrar shall—

- (a) satisfy himself in regard to the identity of each elector by checking the Identity Card or photograph attested by the Principal of the College, or Constituent College or Head of the University Teaching Department or School of Studies;
- (b) call upon the electors to nominate candidates for the election in Form A appended to this Statute and allow an hour for filling nominations. Each candidate shall be proposed and seconded by an elector. Each candidate shall be nominated by a separate nomination paper;

- (c) on the expiry of the fixed time for filling nominations, the Registrar shall scrutinize the nomination papers in the presence of the electors and decide all objections which may be made to any nomination. The Registrar may on such objection or on his own motion reject any nomination paper which is incomplete or defective in any manner;
- (d) after the scrutiny of nomination papers, the names of validly nominated candidates shall be announced in the meeting and half-an-hour only shall be allowed for withdrawal of nominations;
- (e) after the expiry of the time for withdrawals the Registrar shall announce the names of contesting candidates who are validly nominated and have not withdrawn. If the number of such contesting candidates is equal to or less than the number of members to be elected, all such candidates shall be declared elected. However, if the number of contesting candidates who were validly nominated and have not withdrawn exceeds the number of members to be elected voting shall take place;
- (f) where voting is necessary, the Registrar shall call upon the electors to vote and fix the time for the poll, which shall not be less than two hours. Each voter shall be given by the registrar a voting paper in *Form B* showing the names of candidates in alphabetical order. Each voter can vote for as many candidates, as the number of members to be elected. An elector in giving his vote shall put a cross mark(x) in the space opposite the name of the candidate, he wishes to vote for;
- (g) at the close of the poll, the votes shall be counted and the Registrar shall draw up a list showing the names of candidates arranged in order of the votes received, the name of the candidate securing the highest number of votes appearing at the top of the list. Candidates equal in number to the number to be elected who have secured the highest number of votes shall be declared elected. When two or more candidates have secured equal number of votes the result of the election shall be decided by drawing a lot;
- (h) a voting paper shall be rejected.—
 - (1) if it is unmarked or void for uncertainty;
 - (2) if it is signed by the elector;
 - (3) if the elector has recorded votes for more candidates than the number to be elected;

Provided that where an elector, has not voted for more candidates than the number to be elected and there is uncertainty in respect of some votes given by him, the voting paper shall be rejected only to the extent to which the vote is uncertain.

- 6. No election shall be invalid by reason of non-receipt of any notice of election by the elector.
- 7. An election petition against any returned candidate may be presented to the Vice-Chancellor by any candidate or elector within ten days from the date of publication of the result of the election on the notice board of the University. The order of Vice-Chancellor's on the petition shall be final.

FORM - A
NOMINATION PAPER

(Election of students on the Court of University under item No. of sub – Section (1) of Section 21 of the Act)

I propose the name of Shri as the member of the Court of University under item of Sub-Section (10 of Section 21 of the Act.

SIGNATURE OF PROPOSER

I Second the above proposal.
(Full Name)

SIGNATURE OF THE SECONDER

I give my consent to my nomination as a candidate for a seat on the Court of University under item of Sub-Section (1) of Section 21 of the Act.

SIGNATURE OF THE CANDIDATE

FORM B**BALLOT PAPER**

(Election of students for the Court of University under item No.
..... Of Sub-Section (1) of Section 21 of the Act)

Serial No.	Name of the candidate	Vote

- Note.**—(1) The elector should put a cross mark (x) in the space opposite the name of the candidates whom he wished to vote for.
- (2) The elector can give as many votes as the number of seats to be filled by election.

STATUTE NO-XXV***Annual Report***

1. The annual report of the University shall cover the period from the 1st of July to the 30th of June of the academic year and shall be submitted to the Court at its annual meeting held after the expiry of the said period.
2. Copies of the Annual Report of the University shall be circulated amongst the members of the Court on or before the 31st of December, immediately following the expiry of the period to which it relates or at least fifteen days before the date on which the annual meeting of the Court after the expiry of the said period is held, whichever is earlier.

STATUTE NO-XXVI**Condition for Colleges/Institutions to admit the Privileges of the University and Withdrawal of such Privileges.**

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Condition for Colleges/Institutions to admit the Privileges of the University and Withdrawal of such Privileges) Statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. (1) The University shall exercise its powers of affiliation over all colleges and institutions related to health sciences including both modern and Indian System of Medicines and allied health sciences throughout the State. An application for admitting of an educational institution/college to the privileges of the university shall in the following manner :—

- (a) in the case of a college to be owned and maintained by Government for new programme/ course/ subject/ faculty/ post-graduate class to be added or intake of existing course to be increased in such a college/institution by an Officer authorized by the Government in writing for the purpose;
- (b) in case of former-Government colleges/ Institution declared autonomous by the Government, Principal / Dean of the college/ institute, authorized by a resolution of the Board of Governors to make such an application;
- (c) in the case of a college/institution to be owned and maintained by a Society or a

Trust (here-inafter referred to as the Society), by the Secretary of the Society, authorized by a resolution to make such an application;

- (d) in case of a new course/programme/subject/faculty/post-graduate class to be added in an existing Non- Government college/institution aided by the Government by the Chairman of the Government body, Principal of the College/institution authorized by a resolution of Board of Governors to make the application to the Registrar of the University not later than the 31st December preceding the academic year from which affiliation is sought.

(2) The Colleges of Medical and Dental Science Education in the State of Madhya Pradesh, falling under the category of Existing Health Science College which were affiliated to other Universities of the State, their affiliation shall be transferred to Madhya Pradesh Ayurvedic Vishwavidyalaya with effect from the academic session 2013-2014 subject to the completion of the university infrastructure with effect from the date of notification under sub-section (2) of section 6 of the Madhya Pradesh Ayurvedic Vishwavidyalaya Adhiniyam 2011, by Government of Madhya Pradesh. For the purpose of transfer of affiliation these colleges shall apply to the university.

- (a) for the purpose of transfer of affiliation the batch seeking the admission in the undergraduate and postgraduate courses of the academic session 2013-2014 will be the first batch of the university.
- (b) with effect from the session 2013-2014 the colleges shall pay the fees as prescribed by the University from time to time for admission to the privileges of the University degree/post Graduate and Diploma examination.
- (c) such other colleges of Health Science Education colleges/Institution in the State of Madhya Pradesh, including, AYUSH and allied health sciences including Nursing and Paramedical, falling under the category of Existing Health Science College which were affiliated to other Universities of the State, their affiliation shall be automatically transferred to Madhya Pradesh Ayurvedic Vishwavidyalaya with effect from the academic session 2014-2015 by a notification by Government of Madhya Pradesh Department of Medical Education.
- (d) for the purpose of transfer to affiliation these colleges shall apply to Madhya Pradesh Ayurvedic Vishwavidyalaya. With effect from the session 2014-2015 the colleges shall pay the fees as prescribed by the university from time to time for admission to the privileges of the University degree/Post Graduate and Diploma examination.
- (e) the office of the Institution shall have proper and latest Information Technology equipment infrastructural communication facilities as detailed below, to establish communication with the University :-

- (i) Fax

- (ii) Requisite number of computers (P-V) or higher processor with latest specifications, a licensed software (Micro Soft – Office, Professional Visual FoxPro, Visual Basic) as may be prescribed by the University from time to time, at least one laser Printer and one Dot Matrix Printer & others as prescribed by the University from time to time.
- (iii) A high speed Photo Copier.
- (iv) Telephone with Internet Connection.
- (v) Invertors and UPS compatible to run all above machine.
- (f) It shall be basic responsibility of the head of the institute to ensure that the hardware, software and infrastructure along with qualified manpower as prescribed by the university from time to time is made available and always kept in good condition to ensure the continued availability of the automatic system.

(3) The application for affiliation in a new Subject in Diploma, graduate or post-graduate programme shall be accompanied by.—

- (a) a copy of the constitution of the Foundation Society (Memorandum of Understanding);
- (b) certified copies of Trust deeds and title deeds of the property, if any;
- (c) a certificate from All India Council of Health Science Education in concerned Faculty showing that they have permitted the establishment of the Institution, addition of new/programme/subject, or opening of new faculty, increase in intake of one or more diploma programmes or more courses or postgraduate courses sought by the institution; In case there is no All India Council of concerned Faculty for Health Science Education, permission of Madhya Pradesh Medical Council of concerned Faculty for Health Science Education will be required.
- (d) an undertaking to the effect that the Foundation Society shall deposit with the University Endowment Fund as required by the College Code Statute, before the Institution is granted affiliation:

Provided that (a), (b) and (c) above shall not be required in case of an Institution maintained or managed by the Government.

- (e) such applications shall be made in the form prescribed by the Executive- Council of the University along with the fees as prescribed by the University from time to time.

(4) The authorized officer or the Secretary of the Foundation Society, or the Chairman of the Governing Body as the case may be, shall supply information in the application with respect to the following matters, namely:—

- (a) That having regard to the educational facilities available in the neighbourhood, there is a genuine need of a new institution/College in that particular locality or for adding the new programme/ subject/ faculty/ post-graduate class;

- (b) That the qualifications and adequacy of the teaching staff and the conditions governing their employment shall be according to the provisions made by the All India Council of Health Science Education in concerned Faculty / University/Government from time to time; alongwith a statement showing the names of teachers employed, or proposed to be employed.
- (c) It should be noted that University can propose higher standards of Health Science Education against the minimum standards laid down by the All India Council of concerned Faculty for Health Science Education.
- (d) That the financial resources of the institution/College shall be such/so as to make due provision for its continued maintenance and efficient working along with a statement showing the financial resources of the college, including a statement of the annual income and expenditure;
- (e) That no student shall be admitted to the institution/College until the admission prayed for has been granted by the Director Medical Education or University, as the case may be;
- (f) (i) That the Complete details of the buildings and grounds certified by qualified Engineer/ Architect must be provided.
- (ii) That the buildings in which the institution/College is to be located has sufficient number of class-rooms, the floor space of class rooms is suitable and sufficient and the buildings are properly located and are owned by the foundation society as per the Guide Lines of All India Council of Health Science Education in concerned Faculty:

Provided that such condition shall not be required in case of an Institution/College maintained by Government.

- (5) (a) that adequate provision is made for its Library and reading room.
- (b) that suitable provision shall be made for the general supervision and Physical Welfare of the students under a duly qualified Physical Instructor for the staff of the college. The institution should have adequate infra structural facilities.
- (c) that the arrangements for laboratory facilities have been made and for which the institution/College has necessary funds at its disposal, for imparting instruction in that branch of health science or subject, in a properly equipped laboratory and, where necessary, a museum, and the gas and water-supply, the apparatus, Computers, test set-ups and the chemicals, and the design and general electrical and water fittings in the laboratories, lecture-rooms and museums shall conform to such requirements as may be prescribed from time to time.
- (d) that the Institution/College, if not maintained by the Government has sufficient funds to deposit as Endowment Fund and the founder of the Foundation Society is prepared to pledge the same with the University in such manner as may be decided by the Executive Council as a condition precedent to the grant of admission and such Institution or college shall authorize the University to utilize the amount at its discretion for payment of the caution money and the salaries of the staff of the

college if such salaries fall into arrears for a period of more than three months;

- (e) that the Institution/College has significant infrastructure including modern laboratories commensurate with the requirements of the courses being offered in the institution/ College.

- (6) (a) that the fees, payable by the students, shall be fixed in accordance with the rates prescribed by the University from time to time:

Provided that all fees, by whatever name called, to be paid by the students shall be accounted for in the books of account of the college and shall form part of the receipts of the college.

- (b) a statement showing the rates of fees proposed to be levied and the number of students exempted wholly or in partly from such fees must be provided;
- (c) that the rules regarding payment of fees by students in institution/college shall not be framed with a view to attracting student away from an existing institution in the same neighbourhood.
- (d) the arrangements made or proposed to be made for the welfare of girl students, if the college provides co-education;
- (e) a statement showing the number, titles and number of the books, and journals subscribed to the library, and the expenditure annually provided or proposed to be provided for the improvement of the library;
- (f) a statement showing the accommodation provided for the residence or lodging of the Principal of the college and of members of the teaching/ non-teaching staff in or near the college;
- (g) a statement indicating the number of students admitted in the college against sanctioned seats or proposed to be admitted to the college;
- (h) a statement indicating the arrangements made or proposed to be made for the residence or lodging of the students in the college, approved by the college for students,

- 4. Where an institution/College has been given admission to the privileges of the University for a limited period and desires to apply for extension of admission for a further period or permanently, the authorized officer or the Chairman of the Governing Body constituted in accordance with the Statutes shall apply in the form prescribed for the purpose and so far as may be necessary supply:-

- (i) full factual information pertaining to the compliance of all the points, the assurances, and undertakings mentioned in Statute -2 and 3 of this Statute;
- (ii) full factual information about compliance of any conditions laid down by the Executive Council at the time of giving admission for a limited period; and
- (iii) such other information as the Executive Council may call for.

5. (1) An institution/College shall not be eligible for permanent affiliation unless it has 10 years standing as affiliated Institution/College in the courses concern, it has its own buildings adequate for its purpose, a suitable library, adequately equipped laboratories commensurate with the course requirements and a modern administrative office and adequate faculty as per norms of Concern All India Council for Health Education and such conditions as may be prescribed by regulation for the purpose.
- (2) For yearly affiliation of new colleges/ institutes, the application shall be made to the Registrar on or before the 31st October of the year preceding the Academic Year from which the extension of affiliation is sought and shall be accompanied by a fee as prescribed by the university from time to time along with the inspection fees as prescribed by the University from time to time. The inspection fees shall not be refunded unless the application is withdrawn before inspection has taken place. The non-refundable affiliation fees can be deposited with a non-refundable late fee as prescribed by the University from time to time till 30 November of the preceding year on payment of 50% extra charges and upto 31st December of the year concerned on payment of 100% extra charges.
6. On receipt of an application for recognition of a new college/ institution, the Registrar shall, after ensuring that the application is complete in all respects place the matter before the Vice- Chancellor, who will appoint an inspection committee consisting of three or more competent persons, specifying the date on/or before which the report of the Committee shall be submitted:

The report shall be referred to the Academic Council and the Academic Council shall make recommendations to the Executive Council.
7. (a) After considering the report of the Inspection committee and the recommendations of the Academic Council/Standing Committee and making such further enquiry as it deems fit, the Executive Council may either:-
 - (i) communicate to the Directorate of Medical Education about the same, and grant affiliation to the institution/College for the programmes/ courses; or,
 - (ii) reject the application, mentioning reasons thereof.
- (b) Where the Executive Council proposes to grant the affiliation or any part thereof it shall specify:
 - (i) the programme/course or courses of instruction with intake capacity in which and the standard upto which the institution/College is to be admitted to the privileges of the University; and
 - (ii) the conditions, if any, which the Executive Council considers it proper to impose and the time and manner of fulfilment of such conditions.
- (c) The orders passed under clause (b) of sub-Statute (1) or sub-Statute (2) above shall be communicated to the applicant by the Registrar.

8. (1) The Registrar shall communicate the decision of the Executive Council to the applicant management and if the affiliation granted along with an intimation regarding :-
 - (a) Subject and the courses of study approved for the affiliation
 - (b) Number of student to be admitted.
 - (c) Conditions, if any, subject to the fulfilment of which the approval is granted.
- (2) Any application for the grant of affiliation may be withdrawn at any time before a decision is taken by the Executive Council.
- (3) If a college/ institution fail to start classes during the academic year for which permission has been given, the permission for the course concerned shall have to be reobtained.
9. (a) Wherever as a result of a prejudicial report or otherwise the Executive Council considers it necessary to initiate action for the withdrawal of all or any of the privileges granted to an institution/College, the Executive Council shall issue a notice to the Governing Body or the Government as the case may be, apprising the said body of the intention of the Executive Council and requiring the said body to show cause why action as intended should not be taken:

Provided that where an institution/College is admitted to the privileges of the University for a definite period and the admission is not extended for a further period, it shall not amount to withdrawal of privileges.
- (b) The notice under sub-statute (1) shall state:-
 - (i) the reasons for which the intended action is contemplated; and
 - (ii) the period within which the reply to the show cause notice must reach the Registrar of the University.
 - (c) The Executive Council, for reasons considered sufficient by it, may extend the period for reply from time to time but the total period shall not exceed three months.
 - (d) On receipt of the reply of the show cause notice within the period allowed to the Institution/College under sub-statute (2) and (3), the Executive Council may consider the matter in the light of the reply and representation made, if any, by the Institution/College concerned, and if no such reply is received, it may consider the matter on the expiration of the said period, and may after consulting the Academic Council/Standing Committee of the Academic Council make such order as may appear to it proper including the withdrawal of all or any of the privileges granted to the institution/College.
 - (e) Where a resolution withdrawing wholly or partially the privileges granted to an Institution/College is passed by the Executive Council, a copy of the same shall be sent to the Government, Chairman of the Governing Body of the institution/ College concerned who may make an appeal to the Chancellor against such a resolution and the decision of the Chancellor in such appeal shall be final.

10. If at any time, the Executive Council finds, that a College/ Institution is not complying with the requirements of the Act, Statutes, Ordinances or Regulations of the University or any instructions issued by it or on its behalf, the Executive Council will have the authority to impose any one or more of the following penalties:-

- (a) Students of the college concerned may not be accepted for the University examination.
- (b) the college staff shall be debarred from University work such as appointment as examiner, superintendent of examination centres etc.;
- (c) the Principal or the Teacher concerned shall be debarred from nomination to a University body or his name shall be removed from the list of members of the University bodies;
- (d) the affiliation, granted to the college, be withdrawn in part or in whole.

11. Where the Executive Council proposes to withdraw affiliation of a College/ Institution, in whole or in part, the Executive Council shall authorise the Registrar to send to the Management and Principal of the College/ Institution concerned, a notice of withdrawal stating therein the ground on which the action is proposed to be taken together with the indication that any representation in writing submitted on behalf of the college/ institution within a specific period, shall be considered by the Executive Council. The period may be extended if considered necessary by the Executive Council.

12. On receipt of the representation or on expiry of the period referred to in clause above, the Executive Council shall consider the notice of withdrawal, the statement or representation, if any, and make such order as the circumstances may require.

13. In the event of withdrawal of the affiliation of a College/ Institution, the Executive Council shall have power to decide regarding the disposal of the amalgamated funds/ student funds.

- (a) a College/Institution shall not, without the prior permission of the Academic Council suspend instruction in a course of study for which it is authorised to teach.
- (b) if the management of a College/Institution proposes to discontinue a particular course/ subject in the college, it shall seek the prior permission of the University and a formal application giving reasons in support of the proposal shall be made not later than the 31st of October of the year preceding the year in which the discontinuation is proposed.
- (c) In the case of discontinuation of the College/Institution, it shall be incumbent upon the management of the institution concerned to give a notice of one year to its employees regarding termination of their services, which will take effect only if and when the permission is granted by the University and subject to the condition, if any, imposed by it.
- (d) The discontinuation in respect of an integrated course of study/ subject for which it is affiliated shall be in phases as under:-
 - (i) In the first year, admission to first year of the course will be discontinued and admission to next years of courses will continue.

- (ii) In the 2nd year, admission to second year of the course will be discontinued and admission to third year of the course will continue.
 - (iii) The closure of admissions shall continue in the manner given above.
14. (a) Every College/Institution admitted to the privileges of the University shall, during all the time continues to enjoy such privileges, comply with all the provisions of the Act, the Statutes, the Ordinances, the Regulations, and any orders, directions given or resolutions passed by the Vice-Chancellor, Executive Council or Academic Council in so far as they apply to such college.
- (b) Without prejudice to the generality of the provision contained in sub-statute (a) the College/Institution shall in particular comply with the following provisions, namely;
- (i) all conditions imposed at the time of granting admission shall be duly fulfilled with proper check.
 - (ii) the Governing Body required to be constituted under the Statutes shall be so constituted within three months from the date of admission and all matters assigned to it by the Statute shall be administered by it;
 - (iii) any transfer of management shall be reported to the University forthwith;
 - (iv) the qualifications and adequacy of the teaching staff and the conditions governing their recruitment and term of employment shall be strictly according to the provisions of the Statutes, the Ordinances, and the Regulations;
 - (v) all changes in the teaching staff shall be reported to the University within one month of their taking place;
 - (vi) no lecture shall be delivered to more than the number of students at a time as prescribed by the Academic Council, considering the size, structure, seating arrangements and acoustic properties of each lecture room, and arrangements for tutorials, permits a large number of students as may be decided by the Academic Council;
 - (vii) the maximum number of students in a batch for laboratory work under one teacher shall not exceed, the maximum number at a time as prescribed by the Academic Council.
 - (viii) every vacancy in the teaching staff of the College/Institution that remains unfilled for a period of more than one month shall be reported to the University together with a statement of reasons there for;
 - (ix) it shall maintain records and registers in accordance with directions issued by the University from time to time;
 - (x) it shall submit such annual and periodical returns and other information, in such form and in such manner, as may be required to be submitted by any authority or officer of the University.
 - (xi) It shall give and comply with the undertaking that there shall be suitable and adequate physical facilities such as building, laboratories, libraries, books,

equipments required for teaching and research, hostels, sports grounds and other facilities, as may be prescribed by Statutes or by professional councils.

- (xii) Undertaking will be given to basic hospital training facilities for the student of college affiliated to the university will be provided in a phased out manner.
- (xiii) It shall give and comply with the undertaking that that the number of students admitted for courses of study shall not exceed the limits prescribed by the University, from time to time
- (xiv) It shall give and comply with the undertaking that the services of all teaching and non-teaching employees and the facilities of the college to be affiliated shall be made available for conducting examinations and for promoting other activities of the University;
- (xv) It shall give and comply with the undertaking that the directions, and orders issued by the Chancellor, Vice- Chancellor and other officers of the University in exercise of the powers conferred on them under the provisions of this Act, Statutes, Ordinances, Rules and Regulations shall be complied with
- (xvi) That, there shall be no transfer of the management without prior permission of the University;
- (xvii) That the college or institution shall not be closed without prior permission of the University;
- (xviii) That in the event of disaffiliation or closure of the college or institution under Section 25, all the assets of the college or institution including building and equipment which have been constructed or created out of the amount paid as a grant-in aid by the Government or any other Central/ State bodies shall vest in the Government.
- (xix) Every College/Institution shall also furnish such reports, returns and other information as the Academic Council/ Executive Council may require, from time to time, enabling it to judge the efficiency of the college.
- (xx) Every College or Institution admitted to the privileges of the University shall pay to the University each year by the 31st July -an annual affiliation fee as prescribed by the University from time to time, if the –institution/college fails to do so the affiliation may be withdrawn:

Provided that the Vice-Chancellor may permit the requisite fee to be paid together with an additional amount equal to 50% of the requisite fee within a period of one months from the date mentioned above. In the case of such disaffiliation, the University may take such necessary steps as are feasible in the interest of the students.

- 15. (a) The Vice-Chancellor shall cause every affiliated college/ institution to be inspected from time to time by three or more competent persons authorised by it on its behalf:

Provided that each College/Institution shall be inspected ordinarily once in every three years, and at other times where in the opinion of the Academic Council/ Executive Council, such inspection is necessary.

- (b) An inspection committee shall, ordinarily consist of at least three members and no person shall be given ordinarily more than two inspections in a year. One of the members of the inspection committee shall be an expert in the concerned subjects and the courses of study for which affiliation has been/ may be granted.
- (c) The convener of the inspection committee shall be appointed by the Vice-Chancellor and he will be responsible for arranging the inspection.
- (d) The institutions shall pay inspection fee as prescribed under the ordinance /regulations to the University. The University will pay allowance of the members of the inspection committee, as prescribed under the ordinance /regulations of the university.
- (e) The regular inspection will be directed primarily to the purpose of ascertaining:-
 - (i) Whether the conditions of recognition prescribed by the University are complied with;
 - (ii) That adequate measures are taken to ensure efficiency with regard to-
 - (1) Qualifications, and duties performed by the members of the staff;
 - (2) Instructions, residence and supervision of students;
 - (3) Accommodation for classes and administrative offices;
 - (4) Furniture, apparatus and sanitary arrangements;
 - (5) Library;
 - (6) Registers for various purposes; and
 - (7) Other similar matters.
 - (iii) Whether the rules concerning the practical's are being complied with and the laboratories are properly fitted with requisite apparatus and other facilities.
- (f) That no student shall be admitted to the college until the admission prayed for has been granted by the University.
- (g) The inspection committee shall visit the College/Institution and submit the duly typed report in a form prescribed by the University to the Vice-Chancellor within ten days after inspection. The report of inspection committee shall be placed before the Academic Council/ Standing Committee of Academic Council for its consideration and recommendation to the Executive Council.
- (h) If the report calls for any action by the Academic Council/ Executive Council, the Academic Council/ Executive Council shall specify the points on which it considers the college deficient and fix time, which may be extended for sufficient reasons, within which the college shall take necessary action to comply with the directions of the Academic Council/ Executive Council.

16. The principal of the affiliated college/ institution shall submit to the Registrar before the 31st August each year, a report indicating:

- (a) The change in the management, if any;
- (b) Changes in
 - (1) The teaching staff and qualifications of new members
 - (2) Other staff;
- (c) Number and distribution of students;
- (d) Income and expenditure of the previous financial year;
- (e) Results of examinations;
- (f) Scholarships;
- (g) Condition of the Library; and
- (h) Number of students in the college hostels.

17. If, an institution/college is unable to impart instruction for two years in any programme/subject for which it is granted affiliation, such affiliation shall be as lapsed.

18. (a) The Principal and the Teachers in a college admitted to the privileges of the University shall not be appointed on scales of pay and cadre, lower than those sanctioned by the State Government/All India Council for Health Science Education of concerned faculty.
- (b) A part-time teacher in an Institution/College shall be paid monthly honorarium as prescribed by the University from time to time and he has to deliver lectures per week as per norms of All India Council for Health Science Education of concerned faculty.
- (c) The following record must be kept by every affiliated College/ Institution and submit as and when required, to the officer nominated by the Vice-Chancellor:-
- (i) A register of admission and withdrawals.
 - (ii) Registers of daily attendance of students.
 - (iii) A register of fees.
 - (iv) A register of time table.
- (d) Every Institution/College shall provide adequate and suitable space for outdoor and indoor games and physical exercises.
- (e) (i) every Institution/College shall arrange for medical examination of all its student in the manner prescribed by the Executive Council and for the medical aid of student residing in hostel of the college.
- (ii) for the above purpose, the institution/College shall be entitled to levy an annual fee from each student at the rate prescribed by the University.

- (f) Every Institution/College shall, when called upon by the Examination Controller to do so, make available its institution/College building, laboratories, furniture, equipment and staff for the conduct of University examinations.
- (g) The Executive Council may, in consultation with the Academic Council, require any institution/College either permanently or for a specified period to participate in a system of centralized admission by the University or to restrict the number of students in any programme/class or subject, or require the teaching in a college to be confined only to some particular branch. Any such direction or order of the Executive Council shall be given effect from the beginning of the ensuing academic year after the direction or order is received.

Annexure- 1

APPLICATION FOR AFFILIATION OF A NEW HEALTH SCIENCE COLLEGE GENERAL INFORMATION

- 1 **Name of the applicant** (in BLOCK letters)
- 2 **Complete address with PIN code, Telephone nos., Fax and e-mail** (in BLOCK letters)
- 3 **Status of applicant** (Whether State Government/ Trust/ Society or any other body.)
- 4 **Details of the Society/ Trust** (to be filled Yes/ No.
in if the applicant is a Society or Trust)
 - (a) **Name of Society/ Trust** (attach a copy of the Registration certificate)
 - (b) **Registration No./Date**
 - (c) **Members of the Society/ Trust**
 - (d) **Major activities of the Society / Trust** (attach a certified copy of the memorandum of association and byelaws)
 - (e) **Does the Society/ Trust run other Colleges/ Institutions?**
If so, please give details (strike out which is inapplicable) Yes/ No
 - (f) **Financial Status:** Attach copies of audited balance sheet and annual statement of accounts for the last two years.
- 5 **Name of the College with full address, PIN code, Telephone Nos., Fax Nos. and e-mail address.**
- 6 **Course/s to be conducted in the College/ Institution.** UG :
(please give details of each of the PG courses where applicable) PG :

- | | | |
|----|--|---|
| 7 | No. of proposed seats (please give details of each of the PG courses where applicable) | UG :
PG : |
| 8 | Whether the permission of the State Government has been obtained (copies to be attached) | Yes/ No, If yes,
No. of seats _____
Period of consent
from _____ to _____
(please give the position
separately for UG and
PG courses) |
| 9 | Academic Session for which admissions are proposed. | UG :
PG :
(please indicate the years for the
UG and PG courses separately) |
| 10 | Whether permission from the concerned Indian Council has been obtained for starting the College/ Institution (please enclose a copy). | Yes/ No.
If yes, No. and date of the
permission order. |
| 11 | Details of land and buildings
(a) Village/ Town (if there is more than one plot please give details accordingly)
(b) Constructed Floor area (in sq. mtrs.)
College Hospital Total constructed Area | |
| 12 | Connectivity
(strike out which is inapplicable)
(a) Road access to the College
(b) Availability of public transport | |
| 13 | Utilities
(strike out which is inapplicable)
(a) Electric supply
Connected load _____
DG set _____
(b) Water Supply
(strike out which is inapplicable)
(c) Sewerage facilities
(strike out which is inapplicable)
(d) Communications facilities
(strike out which is inapplicable)
Telephone _____
Internet _____ | |
| | | Yes/ No.
Yes/ No.

Yes/ No.
_____ KvVA

Yes/ No.

Yes/ No.

Yes/ No.
Yes/ No. |

MANPOWER AND INFRASTRUCTURE OF THE COLLEGE**14. Equipment available**

- (a) Teaching Department-wise _____
list of equipment (please attach a list)
- (b) List of Hospital Equipment _____
(please attach a list)

15. Manpower

(Provide Department-wise details of Teaching and Non-teaching staff.
Staff for Post Graduate Departments should be shown separately.
The number of posts and salary scale should be indicated)

- (a) full time teaching staff _____
- (b) technical staff _____
- (c) administrative staff _____
- (d) ancillary staff _____
- (e) mode of payment of salary _____
- (f) recruitment procedure _____

16. Other infrastructure

- (a) staff quarters Yes/ No, If yes, give details regarding no. of quarter
- (b) students hostels Yes/ No, If yes, give details regarding *capacity*
- (c) administrative office Yes/ No
- (d) library Yes/ No
- (e) auditorium Yes/ No
- (f) teaching pharmacy Yes/ No/ Not applicable
- (g) mortuary Yes/ No/ Not applicable
- (h) medicinal plants garden Yes/ No/ Not applicable

Area (sq mts)

No. of species

No. of plants

- (i) Other facilities Give details.

17. Space availability in the College
(please indicate area)**Space available (in sq. mtrs)****Item**

Administrative Block

Department-wise

Teaching Block

Lecture Halls

Seminar Hall/ Conference

Central Library

Common Rooms

Canteen

INFRASTRUCTURE AVAILABLE IN THE HOSPITAL

Note: Information should be given which is relevant to the College/ Institution.

18. Basic infrastructure and other facilities available in the Hospital
(indicate area where required and strike out what is inapplicable)

- | | |
|--|----------------------------|
| (a) Hospital Administration | Area (sq. mtrs.) |
| (b) Out-Patient Department (OPD)
(Department-wise rooms- give details) | |
| (c) In-Patients Department (IPD) (Department-wise area and number of beds) | No. of Beds Area (sq.mtrs) |
| (d) Clinical Laboratory (for clinical diagnosis and investigations) (use additional sheets where required) | |

List of equipment indicating name, specification, quantity

List of tests being performed indicating the methods used

No. of tests performed during the last three months

List of staff (Medical/Para-medical)

Details of Radiography and sonography facilities.

No. of X-rays and sonograms performed
during the last three months.

- | | |
|---|--------------------|
| (e) Other facilities (strike out which is inapplicable) | Yes/ No Mtrs. Area |
|---|--------------------|

Operation Theatres/ Block:

OT (Major)

OT (Minor)

Neonatal care room

Central Sterilization/ autoclave unit

Scrub room

Recovery room

Doctor's duty room

Interns/ residents room

Nursing staff room

Attached toilet-bath in OT, Labour room, duty room and staff room

No. of patients operated upon during the last 12 months (major/ minor)

Physiotherapy Unit

Hospital Kitchen and Canteen

(f) **Facilities in the hospital (please indicate area where required)**

Dispensary-list of medicines stocked with quantity (use additional sheet if required)

List of staff working in Dispensary (use additional sheet if required)

Canteen in OPD (strike out what is inapplicable)

Yes/ No. Area Sq. Mtr.

Kitchen in OPD (strike out what is inapplicable)

Yes/ No. Area Sq. Mtr.

Is free food provided to poor patients (strike out what is inapplicable)

No. of toilets in OPD/IPD for men/ women

Yes/ No.

Ramp/ lift for upper stories in the hospital (strike out what is inapplicable.)

Yes/ No Area (sq.mtrs)

(g) **Waiting lounge for patients' attendants (strike out what is inapplicable)**

Staff in Position

Medical Superintendent

Deputy Medical Superintendent

Consultants

Casualty Medical Officer

House Officers or Clinical Registrars/

Senior Residents

Resident Medical/ Surgical Officers (RMO/RSO)

Matron/ Nursing Superintendent

Assistant Matron

Staff Nurses for IPD

Nurses for OPD

Pharmacists

Dressers

OPD attendants

Store keeper

Office staff (for registration, record maintenance, data entry etc.)

Dark-Room Attendant

Operation Theatre Attendant

Telephone Operator-cum-Receptionist

Modern Medical Staff

Medical Specialist

Surgical Specialist

Obstetrician & Gynaecologist

Dentist

Refractionist

Audiometrist

Radiologist

X-Ray Technician/ Radiographer

Anaesthesiologist

Operation Theatre

House Officer or Clinical Registrar/

Senior Resident

Operation Theatre Attendant

Dresser

Nurses

Sweeper

Labour Room (Give information if applicable)

Lady House Officer or Clinical Registrar/ Senior Resident

Clinical Laboratory

Pathologist/Microbiology

Bio-chemist

Laboratory Technicians

Laboratory Assistants

Clerk/Typist/ Computer Operator/

Data Entry Operator

Peon/ Attendant

Sweeper

(h) **Residential accommodation for essential hospital staff**

Nursing Hostel/ Women's Hostel

Residential accommodation for

Emergency Medical Staff and

paramedical staff (optional)

(i) **Teaching Pharmacy and Quality Control Laboratory.**

Yes/ No.

Signature of Applicant

Full name and Designation

Date:

Place:

List of enclosures: The following details should be submitted for affiliation :-

1. Certified copy of Articles/ Memorandum of Association, Trust deed, Bye Laws.
2. Certified copy of certificate of registration/ incorporation.
3. Annual Accounts and Audited Balance Sheet for the last two years
4. Certified copy of the title/ lease deeds of the land as proof of ownership. (Title/ Lease deeds in English and Hindi.
5. Certified copy of the 'No Objection Certificate' issued by the State Government.
6. Other enclosures, if any, as are required in the application form and statute.

PROFORMA - I

Proforma for furnishing details of appointed teaching staff

Sr. No.	Name	Father's Name	Date of birth	Designation	Qualifications UG and PG (with specification) and awarding body	Department	Date of Appointment	Experience if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

PROFORMA - II

Proforma for furnishing details of appointed Teaching staff

Sr. No.	Name	Father's Name	Designation	Date of Appointment	Name of Department	Teaching experience
(1)	(2)	(3)	(4)	(5)	(6)	(7)

STATUTE - XXVII

Registration of Graduates

1. Short title.- This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya **(Registration of Graduates)** statute, 2013

2. Definition.- In this statute, unless the context otherwise requires,-

(a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);

(b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. Persons entitled to registration in the Register of Registered Graduates under Section 36, Sub -section (q) shall apply to the Registrar of the University in Form ‘A’.

4. Graduates shall be registered as life members only on payment of a sum of Rs. 5000/- or on payment of Rs. 1000/- for a period of three years only. On the expiry of this period from the date of their registration, the graduates shall seek re-registration through an application to the University in the form prescribed for this purpose on payment of a fee of Rs. 200/- The names of registered graduates those who fail to get themselves re-registered with in the **appointed** time shall automatically stand removed from the register of registered graduates and the Registrar shall authenticate scoring out of such names.

5. Application for registration may be made at any time during a year:

Provided that only those graduate who are either registered graduates or re-registered of the University, 90 days prior to the date of election of registered graduates for membership of the court shall be eligible to stand as candidates for a vote at such election.

6. For the purpose of enrolment in the register of Registered Graduates;-

(a) The period of three years standing shall be reckoned from the date on which the applicant’s degree was signed by the Vice Chancellor or other competent authority of the University;

(b) The evidence of age (maximum 50 years) shall be submitted.

(c) The following evidence shall be produced by the applicant in support of graduation: —

1. His degree or a copy thereof duly attested by a Gazetted Officer or a Professor or a Principal of a College; or
2. A certificate from the Registrar of the University conferring The degree of the effect that he has been admitted to the Degree, or
3. The calendar or other authorized publication of the University,

4. Any other evidence to the satisfaction of the Registrar.
7. The following evidence shall be produced in support of residence, Namely: -
 - (1) Certificate from:
 - (a) A Statutory Officer of the University.
 - (b) A Principal of a College in the University.
 - (c) A Professor, College Professor or Reader of the University.
 - (d) A Magistrate.
 - (e) A Gazetted Officer of the State of Madhya Pradesh or the Central Government.
 - (2) Such other evidence of residence as may be accepted as satisfactory by the Registrar in this behalf.
 - (3) The name of the applicant, if he is duly qualified and has paid the enrolment fee, will be entered in the Register.
 - (4) The Registrar shall maintain in his office the Register of Registered Graduate showing their names and addresses including place of residence and district, name of the Degree and the year of award of the degree together with the name of the University which awarded the Degree and the signature of the Registrar against the entry of each name in the Register. The Register shall be available for inspection.
 - (5) Every Registered Graduate shall intimate to the Registrar all changes in his permanent address.
 - (6) The Registrar shall by a notice along with one blank Form B sent to each person registered as a Registered Graduate of the University on the date on which the said Act came into force and in such news papers, as the Vice Chancellor may approve, call upon every such registered graduate to declare if he is enrolled as a Registered Graduate of any other University and to exercise his opinion under Section 36, clause (q) of section 36 of the Act, if necessary, to continue as a registered graduate of the University.

APPENDIX (FORM 'A')

Application for the Registration of Graduates

To,

The Registrar
Madhya Pradesh Ayurvedigyan Vishwavidyalaya
Jabalpur (MP)

Sir,

I desire to be enrolled as a registered Graduate of Madhya Pradesh Ayurvedigyan Vishwavidyalaya Jabalpur and I am enclosing herewith a bank draft no_____dated _____amounting to rupees _____rupees in words() (issued by _____)

(Bank)_____.

My particulars are as given below:-

1. Name _____
2. a) Details (e.g. MBBS\BDS\BAMS etc. and year of award of Bachelors Degree _____
b) Details and year of award of Post-Graduate Degree, if any.
3. Name of University, which awarded the Bachelor's Degree/Post Graduate Degree.
4. Place of Residence.
5. District in which place of residence is located.
6. Distance of the place of residence from the administrative office of the University (more than 15 Km. or less than 15 Km.)
7. Whether enrolled as Registered Graduate of any other University. If so give the name of the University and Registration number.
8. Whether prepared to cease to be a Registered Graduate of the University/ Universities thrown in (7) above. If this application for registration succeeds. I declare that the particulars given above are correct.

Necessary evidence in support of graduation and residence are enclosed.

Yours faithfully.

Signature of Applicant_____

Full name in block letters_____

Surname underlined

Permanent Address_____

Note: Unless a change in address is duly intimated to the University in writing all communication to a Registered Graduate shall be sent to the address given above.

To be filled in by the University office.

Rs. _____ received and entered at No. _____ of the Receipt Register

Date _____

Cashier

FORM 'B'

Declaration under the provision of section of the Madhya Pradesh Ayurvedigyan
Vishwavidyalaya Act 2011

(Last date for receipt at University office Dated.....)

To,

The Registrar
Madhya Pradesh Ayurvedigyan Vishwavidyalaya
Jabalpur (MP)

Sir,

I hereby declare that I am not registered as a Registered Graduate of any other University; or

I hereby declare that I am not registered as a Registered Graduate of any other Universities
under registration number mentioned against each.

	Name of the University	Registration No.
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____

2. I am a graduate of _____University Evidence in support of award of degree is enclosed/has been filled with my original application for registration.
3. I am a resident of _____in _____(Name of Village/Town) _____district of Madhya Pradesh. The place of my residence is more than/less than 15 Kms. From the administrative office of the University. Necessary evidence in support of residence is enclosed.
4. I declare that the information given above is correct.

Yours Faithfully

Signature_____

Full Name_____

Registration Number_____

STATUTE -XXVIII
COLLEGE CODE
[See section 5(xvi)]

1. **Short title.**— This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (College Code) Statute, 2013.

2. **Definition.**— In this statute, unless the context otherwise requires,-

- (a) “College” means an educational institution admitted to the privileges of the University including:-
- (i) Government College- a College maintained by the State Government or a Municipal Corporation/Council;
 - (ii) “Grantee College”- a College receiving maintenance grant from State Government or Madhya Pradesh Uchcha Shiksha Anudan Ayog;
 - (iii) “Non-Grantee College”- a College not receiving the regular maintenance grant from State Government or Madhya Pradesh Uchcha Shiksha Anudan Ayog;
 - (iv) “Autonomous College”- a College so designated by the University as per provisions of Statute of Madhya Pradesh Vishwavidyalaya Adhiniyam.
- (b) “Donor” means an individual, firm, association, charitable trust or any other institution other than the Foundation Society giving a donation of not less than fifty thousand rupees in cash or immovable property for the use of the college:
- Provided that if the donation is given by any firm, association, trust or institution, the representative nominated by such donor shall be the donor for this purpose.
- (c) “Foundation Society” means a body of persons, registered or incorporated under any law for registration or Statutory incorporation, which founds and maintains an educational institution admitted to or seeking admission to the privileges of the University and where the Governing Body of the Society is superseded under section 33 of the Madhya Pradesh Society Registrikaran Adhiniyam 1973, the person or persons appointed by the State Government to manage the affairs of the Society. In case of educational institutions maintained and run by Local Bodies, the Foundation Society shall be the Council of the Local Body and in case the Local Body is superseded the person who acts for the Body.
- (d) “Governing Body” means the Governing Body constituted in accordance with the provisions of this Statute.
- (e) “President of the Foundation Society” means a person who is duly elected as its President (by whatever name called) by the Foundation Society and is the Executive head thereof and where the Society is superseded under Section 33 of the Madhya Pradesh Society Registrikaran Adhiniyam 1973, the person or the head of the body of persons appointed by the State Government to manage the affairs of the Society.

- (f) "Statute" means the Statute under the provision of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya, 2011 (No. 19 of 2011).
- (g) "Teachers" means members of the teaching staff of a College and includes the Principal.
- (h) Words and expressions used but not defined in this Statute shall have the meaning as assigned is them in the Act.

Part I-the Foundation Society

3. (1) The college code shall apply to all Colleges admitted to the privileges of the University except the colleges maintained or managed by the State Government or a Municipal Corporation or the University.
 - (2) The Foundation Society of a college shall be responsible for providing the necessary funds for the maintenance and upkeep of the college up to standard required by the University.
 - (3) No employee of the college including an honorary or part time who is paid an honorarium shall be an office bearer or member of the Foundation Society.
4. The Foundation Society of every college shall deposit Endowment Fund as prescribed by the University from time to time with the University in the form of Fixed Deposit Receipts in the joint names of the Registrar and the College : -
- (a) if the college has faculty only at the undergraduate level;
 - (b) for every additional faculty at the under graduate;
 - (c) for the first course at post graduate level ;
 - (d) for each additional course at the post graduate level.
5. In case of a college in existence in the date of coming into force of this statute the foundation society shall deposit with the University in every academic year an amount equal to one fifth of the value of the Endowment Fund necessary till the Endowment Fund as required in clause (4) above is deposited in full.
6. The deposit for creating the Endowment Fund shall not be made from the receipts of the college in the form of fees from students or grants received by the college or from loans from the staff of the college.
7. (1)The income from the Endowment Fund shall be made available to the college for its use.
- (2) When the salary due to the teachers is not paid for three months, the University may permit the use of the Endowment Fund and require the Foundation Society to deposit back the amount drawn therefrom.
 - (3) In the event of closure of the college or in the event of college being taken over by the Government the caution money and the salary due to the employees, including teachers, of the college shall be the first charge on the Endowment Fund.

8. The Foundation Society shall carry out all directions of the University and shall maintain and run the college in accordance with the Act, Statutes, Ordinance and Regulations.

9. (1) If the Executive Council after giving reasonable opportunity to the Foundation Society that it has failed to meet all or any of its obligations as laid down in the code, it may take any of the following actions:

- (a) withdrawal of the right to have its appointees other than the chairman of the Governing Body of the college;
- (b) withdrawal of the powers vested in the Foundation Society by this Statute;
- (c) withdrawal of the affiliation of the college.

(2) Where any action is taken by the Executive Council under the clause (1), the Foundation Society may appeal to the State Government against the decision of the Executive Council. The decision of the State Government in the matter shall be final.

10. (1) The Foundation Society shall have the following powers, namely:-

- (a) to appoint the first principal and other members of the teaching staff of the college in accordance with the provisions of this code till the Governing Body is constituted or till the expiry of the period of ninety days from the date on which the college is first admitted to the privileges of the University whichever is earlier.
- (b) to sanction on the recommendation of the Governing Body, the opening of a new department of studies or the creation of new teaching posts as involve additional financial obligation, on the Foundation Society, subject to approval of the State Government in case of Non-grantee college and Executive Council in case of Non-grantee colleges.
- (c) to sanction items of new expenditure exceeding Rs. 50,000/- (Rupees fifty Thousand) in the case of non-recurring expenditure and exceeding Rs 10,000/- (Rupees Ten Thousand) in the case of recurring expenditure which involve additional financial obligation on the Foundation Society;
- (d) to consider and pass resolutions on the annual estimates of Income and Expenditure and the Audit Report of the college and forward them to the Governing Body for its consideration;
- (e) to call for information regarding the functioning of the college from the Governing Body and to suggest to the Governing Body measures for the improvement and development of the college;
- (f) to appoint the Auditors of the college from out of a panel of names approved by the Registrar of Firms and Societies:

Provided that the Foundation Society shall not interfere with the day-to-day administration of the college.

(2) In case of any difference of opinion between the Foundation Society and the Governing Body any of them may refer the matter to the Executive Council decision of the

Executive Council final shall be binding. In case the college is maintained and run by an individual the obligations and powers of the Foundation Society shall vest in such individual.

Part II – Governing Body/New

11. (1) There shall be a Governing Body for the management of the college. It shall consist of,—

- (a) the Governing Body appointed by the Foundation Society from amongst its members or by the individual maintaining the college— Chairman
- (b) two persons appointed by the Foundation Society from amongst its members or by the individual maintaining the college—Members
- (c) nominee of the All India Council of concerned Faculty— Regional Officer (Ex-Officio);
- (d) an Health Science Educationist from the region to be nominated by the concerned Regional Committee as nominee of the Council, out of the panel approved by the Chairman of the all India Council of concerned Faculty;
- (e) a Health Science Educationist of concerned Faculty for region nominated by the State Government;
- (f) two representatives of the University other than members of the Foundation Society of the college nominated by the Vice Chancellor, from amongst the teachers of the University;
- (g) one representative of the donors of the college to be elected by the donors;
- (h) one nominee of State Government from amongst the senior teachers not below the rank of college professors working within the Jurisdiction of the University (excluding the concerned College);
- (i) one nominee of State Government—Director of Medical Education (Ex-Officio);
- (j) two representatives elected by the teachers of the college who have completed two years of service other than the principal:

Provided that the restriction regarding two years of service shall not apply for the first three years of the existence of a college;

- (k) the principal of the college—Ex-Officio Member Secretary:

Provided that the following shall not be eligible to be a member of the Governing Body under clauses (a) to (i) above: —

- (i) a person who is related to any member of the college;
- (ii) a person having pecuniary interest in the affairs of the college; and
- (iii) an employee of the college.

- (2) The chairman and member of the Governing Body other than Ex-Officio member shall hold office for a period of two years.
- (3) The chairman and members appointed by the foundation society before the supersession of the Governing Body of the Society and their places shall be filled by the person/ persons appointed by the State Government.
- (4) An office bearer or member of the Governing Body may resign from the Governing Body through a letter of resignation addressed to the Secretary of the Governing Body and the resignation shall take effect as soon as the letter is received by the Secretary. The Secretary of Governing Body shall take steps to fill all vacancies as they occur.
- (5) When a vacancy occurs in the office of a members other than a ex-officio member, before the expiry of his term, the vacancy shall be filled, as soon as may be, by the election, nomination or appointment as the case may be.
- (6) Every change in the office-bearers of membership of the Governing Body of a college shall be reported immediately to the University by the Secretary.
- (7) The Governing Body shall meet at least thrice a year. Five members of the Governing Body shall form a quorum. If the quorum is not present within thirty minutes of the time given in the notice no meeting shall be held. No quorum shall be necessary for an adjourned meeting.
- (8) Meeting of the Governing Body shall be convened by the Secretary in consultation with the Chairman. In case the Secretary does not call a meeting when directed by the Chairman to do so, the Chairman may call the meeting
- (9) (a) The Secretary shall give at least ten days notice of an ordinary meeting of the Governing Body.
 - (b) An emergent meeting of the Governing Body can be convened on three clear days notice.
 - (c) On a requisition signed by not less than four members specifying the business to be transacted, a special meeting of the Governing Body shall be convened within twenty days of the receipt of such requisition. At least ten days notice to a special meeting shall be given.
 - (d) The agenda of every meeting shall be sent with the notice to the members. Proposals from any member received by the Secretary before the issue of notice shall be included in the agenda. The agenda of a special meeting shall include only the business indicated in the requisition.
 - (e) No business other than that included in the agenda shall be transacted at a meeting except with the consent of the Chairman and unless permission is given to introduce it by the majority of the members present.
- (10) The Chairman shall, preside at meeting of the Governing Body. In the absence of the Chairman the members present shall elect one of the member.

- (11) The minutes of every meeting of the Governing Body shall be drawn up by the Secretary and after approval of the Chairman circulated among the members within fifteen days of the meeting.
- (12) It shall be the duty of the representatives of the University on the Governing Body to report to the Vice Chancellor regarding decisions affecting adversely for the smooth working of the College and violation, of the Statutes Ordinances, Regulations or instructions of the University.
- (1) No act or proceeding of the Governing Body shall be invalid merely by reason of any vacancy in its membership or any defect of irregularity in the appointment, nomination or election of a member.
- (2) (a) The Governing Body shall be responsible for the General Administration of the college including:—
 - (i) management and regulation of the finances, accounts, investments, property and other assets of the college;
 - (ii) adoption with or without modification of the budget submitted by the Principal of the college after considering the observations, of the Foundation Society;
 - (iii) the institution and abolition of new department of Studies or new teaching and non-teaching posts in the college:
 Provided that no Teaching Department or teaching post shall be abolished without the prior approval of the Executive Council;
 - (iv) appointment, promotion, suspension and punishment of the teachers of the College and any other action affecting their services;
 - (v) maintenance of the college up to the academic standard required by the University and compliance by the College of the Act, Statutes, Ordinances, Regulations and directions issued by the University.
13. In the matter of the management of the college, the Governing Body shall be the final authority bound by Statutes, Ordinances, Regulations and Directions of the University and such rules as are framed by the Governing Body.
14. The Governing Body shall submit to the Foundation Society.—
 - (a) Till the 31st July of each year a Statement of Annual Accounts of the college for the preceding financial year and the audit report by an auditor appointed by the Foundation Society and annual report on the work and progress of the College ending 30th June.
 - (b) On 30th September each year the budget estimates of the College.
 - (c) Proposals for such items of new expenditure exceeding Rs. 50,000/- (Rupees fifty thousand) in the case non-recurring and exceeding Rs. 10,000/- (Rupees ten thousand) in case of recurring obligation on the Foundation Society.
15. The Governing Body may make rules consistent with the Provisions of the Act, Statutes, Ordinances with regard to:

- (a) The procedure to be observed at its meetings;
 - (b) The management of the College;
 - (c) The manner in which its decisions shall be given effect to.
 - (d) The Governing Body shall exercise all powers not otherwise provided in this Statute and not inconsistent with the provisions of the Act, Statutes and Ordinances.
16. The Travelling Allowance and Daily Allowance of nominee of the University or the State Government attending a meeting of the Governing Body or Selection Committee or any other body or committee constituted for the College shall be paid by the College at the rates admissible to a member of the authorities of the University.
17. (1) The Governing Body shall be constituted in accordance with Provisions of this Statute within a period of ninety days from the date of admission of the College to the privileges of the University.
- (2) The Governing Body in existence on the date immediately preceding the date of enforcement of this Statute shall continue to function till the new Governing Body is constituted in accordance with the provisions of this Statute but such period shall not extend beyond a period of ninety days from the date of enforcement of this Statute.

Part III – The College Council

18. (1) There shall be for each college a college council consisting of the Principal and all teachers of the College. The Principal and the Vice Principal if any, of the College shall respectively be the ex-officio President and Vice President of the council.
- (2) The Secretary shall be elected by the Council from amongst its members, he shall hold office for one year, but not more than two consecutive terms. He shall convene meetings of the College Council under the directions of the Principal.
- (3) The Council shall meet at least thrice during the academic year. It shall perform the following duties namely:—
- (a) to discuss the progress of studies in the College;
 - (b) to bring to the notice of the Governing Body the needs of the students and teachers;
 - (c) to make recommendations to the Principal or the Governing Body for improvement of the academic efficiency, effectiveness of the College;
 - (d) to advice the Principal on such matters relating to the internal management of the college and discipline of its students;
 - (e) to advice and assist the Principal in the preparation of the timetable, allocation of teaching work and for the organization of the extra-curricular activities of the College;
 - (f) to consider and to bring to the notice of the Governing Body matters affecting the interests, rights and privileges of the teachers cadre.

Part IV- The Powers and Duties of the Principal/Dean

19. (1) The Principal shall be the Chief Executive Officer and the academic head of the college and he shall participate in the teaching work of the College.
- (2) Subject to the general control of the Governing Body the Principal shall be responsible for:—
- (a) The administration of the college generally as an institution admitted to the privileges of the University;
 - (b) The management of the College library and hostels;
 - (c) Maintenance of the accounts, receipts and expenditure of the College;
 - (d) Correspondence of the college and custody of the records of the College;
 - (e) Administration of the amalgamated fund;
 - (f) Execution of the decision of the Governing Body;
 - (g) Quality of teaching and learning process and standard of education provided by the college.
20. The Principal shall have the following powers, namely:-
- (a) To admit students to the College; as per Government directions/Honorable court directions/ Central council direction and as per provision of the concerned ordinances;
 - (b) To assign duties in respect of teaching, administrative work and extra-curricular activities to the teaching and other staff of the College and see to the proper performance thereof;
 - (c) To appoint, promote, grant leave, suspend and take disciplinary action against the class III and class IV employees of the College;
 - (d) To maintain discipline in the College:
Provided that in the case of rustication of student from the college, the college council may review the decision of the Principal;
 - (e) To exercise all such other powers as may be conferred on him by the Statutes, Ordinances and Regulations.

Part V - Teachers of the College

21. (1) No appointment to any teaching post in the college, including the post of the Principal shall be made except:-
- (a) after duly and widely advertising the post together with the minimum qualifications as prescribed by the Concerned Central Council for Health;
 - (b) on the recommendation of Selection Committee.
- (2) No appointment to the post of Principal shall be made except with the prior approval of the Executive Council.

- (3) No person shall be appointed to any teaching post including that of the Principal unless he possesses the minimum qualifications prescribed for the post by the concerned Central Council for Health Science Education, and approved by the State Government.
 - (4) Every change in teaching staff of the college shall be immediately reported to the University by the Principal.
22. (1) The Selection Committee for the teachers, principals and non-teaching employees for "Grantee Colleges" and "Non Grantee College" shall be such as provided in the Madhya Pradesh Ashashkiya Shikshan Sanstha (Adhyapakon tatha Anya Karmachariyon ki Bharti) Niyam 1979, One nominee of the Concerned Central Council for Health Science Education.
- (2) In no case the committee constituted for Selection of Principal shall transact business at a meeting unless Chairman, at least one subject expert and two other members are present.
 - (3) The Committee shall, having regard to the nature of duties of post, select candidates as per rules and shall prepare a panel of such candidates in order of merit.
 - (4) The panel and the recommended order of merit should have the full concurrence of at least one expert.
 - (5) The panel prepared under sub-statute (3) shall contain the names of the candidates having at least two names more than the number of posts proposed to be filled up.
 - (6) The panel drawn shall be submitted to the Governing Body.
 - (7) The Governing Body shall make the appointment to the posts of teachers or other employees in order of merit from the panel prepared clause (3) above.
23. (1) No person shall be appointed to a full time and salaried teaching post in the College except on the recommendation of the Selection.
- (2) Appointments to part-time teaching posts may be made by the Foundation Society or the Governing Body as the case may be on the recommendation of the Principals from amongst persons who possess the minimum qualifications prescribed for a lecturer.
 - (3) The appointment of teacher made prior to the coming into force of this Statute in accordance with the Statutes and Ordinances in force at the time the appointment was made shall be deemed to be validly made.
24. (1) (a) the Principal and the other members of the teaching staff except those appointed in leave vacancies on part-time basis or on temporary basis shall be appointed initially on probation for one year. The period of probation shall not be extended by more than one year;
- (b) where an appointment is made on temporary basis, whether in a leave vacancy or otherwise the reasons for such temporary appointment shall be communicated by the Principal to the university.

- (2) Unless the work of the probationer is found to be unsatisfactory and he is not informed for the same by the Governing Body at least one month before the expiry of the probation period, the probationer shall be deemed to have been confirmed in his appointment on the expiry of the period of probation.
 - (3)(a) every teacher other than the teacher appointed on part-time or temporary basis shall be appointed on a written contract in the prescribed form;
 - (b) it shall be the duty of the Governing Body to get such contract executed within a period of one month from the date on which the appointee joins the post;
 - (c) In case of any conflict between the contract in the form prescribed and any other contract between a teacher and the College or its Governing Body, the terms and conditions laid down in the contracts shall be applied.
25. The posts of Professors shall ordinarily be filled up by promotion from amongst the qualified teachers in the college on the basis of seniority-cum-merit:
- Provided that, when no teacher of the college in the immediately lower cadre from which promotion is to be made possesses the requisite qualifications, the post of Assistant Professor or Professor may be filled up by direct recruitment on the recommendation of the Selection Committee.
- Provided that, when no teacher of the college in the immediately lower cadre from which promotion is to be made possesses the requisite qualifications, the post of Assistant Professor or Professor may be filled up by direct recruitment on the recommendation of the Selection Committee.
- 26.(1) The scales of pay for different categories of teachers in the college including the Principal shall be such as are prescribed for the State Government colleges or as prescribed by All India Council for concerned faculty as the case may be.
 - (2) A part-time teacher shall be paid honorarium at the rates prescribed by the State Government.
 - (3) Salary of every teacher shall be paid by a cheque drawn in his favor latest by the 5th of the month.
 - (4) The Governing Body or the Foundation Society shall not require or accept any donation or loan from the employees including the teachers of the Colleges.
 - (5) Every teacher other than the part-time teacher shall be entitled to annual increment in the prescribed pay scale on the due date as a matter of course unless it is withheld after due enquiry.
27. A temporary teacher who has been in the service of a college for a full academic year shall be entitled to full pay for the ensuing vacation. If such teacher is in the service of a teacher for less than a full academic year but for more than three months he shall be entitled to salary for the ensuing vacation in the same proportion as the period of his service bears to the total period in the academic year.

Provided that such teacher shall not be entitled to any pay for the summer vacation where such teacher is officiating in place of another teacher on leave entitled to draw pay for the said vacation.

28. (1) Every teacher including the Principal shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a teacher.
- (2) No member of the teaching staff except a part-time teacher of a college shall apply for any post under any other authority except through the Principal and in the case of the Principal through the Chairman of the Governing Body.
- (3) A teacher other than a part-time teacher shall be a whole time employee of the college and shall not without the previous approval of the Governing Body, engage himself in private tuition or in any trade or business or take up any occupation or work other than as an examiner or author of books, which is likely to interfere with the duties of this appointment.
- (4) No teacher shall except with the prior written sanction of the Governing Body participate in the editing or management of any newspaper other than learned journals.
- (5) (a) a teacher of Colleges/Institutions affiliated with the University shall obey all lawful directions of the Vice chancellor, the Principal and the Governing Body of the college. He shall in addition to the ordinary duties as a teacher perform such other duties as may be entrusted to him by the Principal in connection with the co-curricular and extra-curricular activities in the college or duties in connection with examinations, administration and the keeping of discipline in the College;
- (b) teacher shall be required to take teaching periods as per rules of all India Council of concerned Faculty and according to Statutes, Ordinances, and Regulations of the University.
- (6) (a) no teacher shall act in a manner prejudicial to the interests of the college or associate himself with any activity, which in the opinion of the Governing Body might affect adversely the interests of the college;
- (b) No teacher shall be a member of or be otherwise associated with any political party or any organization.
- (7) Teachers shall be governed by the rules of conduct if any framed by the Governing Body in conformity with the Act, the Statutes, Ordinances and Regulations of the University.
- (8) Any Infringement of the provisions of the college code shall be regarded as subversive of good discipline and would amount to misconduct and justify the initiation of disciplinary action against such teacher.
29. A permanent teacher shall be entitled to be in the service of the college until he completes the age of sixty-two years or as decided by the State Government. No extension after the retirement age shall be granted:

Provided that where the date of retirement of a teacher falls due during the course of the academic session the Governing Body shall allow the teacher to continue till the end of the academic year.

30. A teacher in temporary service cannot discontinue his service in the college without giving one month's notice or one month's salary in lieu thereof. The Governing Body shall similarly give by one month's notice or one month's salary in lieu thereof to a temporary employee when terminating his service:

Provided that no notice shall be necessary where the service of a temporary teacher is discontinued or terminated at the end of the fixed term for which he is appointed.

31. The service of a teacher who is appointed on probation can be terminated during or at the end of the period of probation if his work is not found satisfactory by giving one month notices to the teacher or one month's salary in lieu of the notice. Such notice shall not include the summer vacation or any part thereof and the teacher if he has been in service for more than three months during the academic session shall be entitled to salary for the ensuing summer vacation in the same proportion as the period of service bears to the total period in the academic session.

32. (1) The service of a teacher can be terminated on the following words:-

- (a) misconduct including wilful neglect of duty.
- (b) a Breach of the terms of the contract.
- (c) physical or mental unfitness.
- (d) incompetence provided that the plea of incompetence shall not be used against a teacher after two years of his confirmation.
- (e) abolition of the post with the prior approval of the Executive Council:

Provided that action to terminate the service of a teacher on the ground of physical or mental unfitness shall not be taken except on the basis of a report of Medical Board of the State Government.

- (2) Except where the services of a teacher are terminated on the ground of misconduct including neglect of duty or breach of the terms of the contract neither the Governing Body nor the teacher shall terminate the agreement except by giving to the other party three month's notice or by paying to the other party a sum equal to thrice the monthly salary. The period of notice shall not include the summer vacation or any part thereof.

Part VI – Suspension, Penalties and Disciplinary Authority

33. (1) The appointing authority may by an order place an employee, including a teacher, of the college, under suspension :—
- (a) Where a disciplinary proceeding against him is contemplated or is pending; or
 - (b) Where a case against him in respect of any criminal offence involving moral turpitude is under investigation, inquiry or trial.
- (2) An employee of the college shall be deemed to have been placed under suspension by an order of the appointing authority.

- (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise for a period exceeding forty-eight hours;
- (b) with effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forth with dismissed or removed or compulsorily retired consequent to such conviction.
- (3) An order of suspension made or deemed to have been made shall continue to remain in force until it is modified or revoked by the appointing authority, but in cases other than criminal proceedings it shall not operate for more than six months.
- (4) During the period of suspension, the employee shall be paid subsistence allowance equal to fifty percent of the emoluments last drawn by him.
- (5) If the employee is exonerated from the charge or charges are subsequently withdrawn he shall be reinstated in his post and shall be paid full salary for the period of his suspension after deduction the subsistence allowance already paid to him.
34. (1) The appointing authority may, for good and sufficient reasons, impose on an employee of the College (including a teacher) the following penalties:
 - (a) censure;
 - (b) recovery from his pay of the whole or part of any pecuniary loss caused by him to the college by negligence or breach of orders;
 - (c) With-holding of increments of pay;
 - (d) reduction to lower time scale of pay, grade or post;
 - (e) compulsory retirement;
 - (f) removal from service;
 - (g) dismissal from service which shall ordinarily be a disqualification for future employment in the College.

Besides the above, the penalty of fine not exceeding ' 50 may be imposed on a Class IV employee of the college for petty carelessness, unpunctuality, idleness or similar misconduct of a minor nature.

- (2) The appointing authority may institute disciplinary proceedings against an employee of the college.
- (3) No order imposing any of the penalties specified in sub-paragraph (1) above than fine shall be made except in accordance with the procedure for imposing penalties on Government servant prescribed by the Madhya Pradesh Government and in force at the time the appointing authority orders an inquiry against the college employee concerned:

Provided that no proposal to reduce in rank or pay a teacher confirmed in the Service of the College or to remove or dismiss him from Service or to retire him compulsorily shall be deemed to have been passed by the Governing Body unless it

is supported by a majority of two-thirds of the members present at the meeting of the Governing Body in which it comes up for consideration and where a decision is duly taken it shall not be given effect to unless it is approved by the Executive Council.

- (4) The following lapses would constitute misconduct on the part of teacher of the College, including the Principal:-
- (a) failure to perform his academic duties such as lectures, demonstrations, assessment, guidance, invigilation etc.
 - (b) gross partiality in assessment of students, deliberately over-marking/under-marking of attempts at victimization on any grounds.
 - (c) inciting students against other students, colleagues or administration. This does not interfere with the right of a teacher to express his difference on principles in seminars or other places where students are present.
 - (d) raising questions of caste, creed, religion, race or sex in his relationships with the colleagues and trying to use the above considerations for improvement of his prospects.
 - (e) refusal to carry out the decision by the appropriate officers/bodies of the University and/or the Governing Body/Principal of the College. This will not inhibit his right to express his differences with their policies or decision.
35. (1) Where any penalty is imposed on an employee of the college by Principal, the employee concerned may prefer an appeal to the governing Body of the college within thirty days from the date on which a copy of the order appealed against is delivered to the appellant.
- (2) Where a penalty other than reduction in rank or pay or removal or dismissal or compulsory retirement from service is imposed on a teacher, he may prefer an appeal to the Executive Council within thirty days from the date on which a copy of the order appealed against is delivered to the appellant.
- (3) An appeal against an order of the Governing Body imposing on teacher the penalty of reduction in rank or pay or removal or dismissal or compulsory retirement from service shall lie to a Tribunal consisting of:
- (i) A nominee of the Vice Chancellor, other than a member of the Executive Council who will act as the Chairman.
 - (ii) The aggrieved teacher's nominee to be named by the Appellant in his appeal, and
 - (iii) A nominee of the Governing Body:

Provided that in case a person in clause (iii) above is not nominated by the body concerned within three months, the Vice Chancellor shall have the powers to appoint on behalf of the body concerned, a nominee not connected with the University in any manner:

Provided further that an appeal under this sub-statute shall be submitted to the Vice Chancellor not later than forty-five days from the date on which a copy of the order appealed against is delivered to the appellant.

- (4) The appeal shall except where provided otherwise, be presented to the authority to whom the appeal lies. A copy of appeal shall be forwarded by the appellant to the authority, which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies and shall not contain any disrespectful or improper language and shall be complete in itself.
- (5) The authority which made the order against which the appeal is preferred shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay and without waiting for any direction from the appellate authority.
- (6) (a) the appellate authority may confirm, enhance, reduce or set aside the penalty or remit the case to the authority which imposed the penalty with such directions as it may deem fit in the circumstances of the case;
- (b) the authority which made the order against which the appeal is preferred shall give effect to the orders passed by the appellate authority.

Part VIII- Provident Fund and Leave

- 36.(1) The Governing Body shall maintain a Provident Fund for the benefit of its employees.
- (2) Every whole time teacher and employee of the college other than the person whose Services have been lent to the college by Government or another Institution, permanently appointed to a substantive post shall, become a depositor of the provident fund and family benefit scheme of Life Insurance Corporation of India Limited in the college.
- (3) The provisions of rules regarding Pension, General Provident Fund and Gratuity on being approved by the State Government shall become applicable to Grantee and Non-Grantee Colleges.
- (4) The contribution of each depositor to the fund shall be twelve percent of the salary of the depositor, such contribution shall be deducted monthly from the salary of the depositor and the amount so deducted together with an equal amount to be contributed by the college shall be deposited in the Saving Bank or any Post Office or Scheduled Commercial Bank in a separate Provident Fund Account in the joint name of the teacher/employee and the Principal of the college:

Provided that in the case of the account of the Principal, it shall be in the joint name of the Principal and the Chairman of the governing body:

Provided further that the depositor may raise, at his option, his contribution to the Provident Fund to any amount not exceeding fifteen percent of his monthly salary. Even when the contribution is so raised, the contribution of the college shall be twelve percent of the salary of the depositor.

- (5) (i) An employee on leave on full average pay shall continue to subscribe to the Provident Fund and premium of Family Benefit Scheme, during the period of such leave;
- (ii) A teacher/employee under suspension shall not contribute to, the Provident Fund during the period of suspension nor shall the contribution of college be due in this case. The premium of Family Benefit Scheme of such suspended employee shall be deposited to Life Insurance Corporation of India Limited from the suspension allowance.
- (6) (i) The Governing Body may, under such conditions as may be laid down by it permit the payment of premium of life assurance policy or policies on the life of the depositor or family benefit scheme, out of his personal contribution to the Provident fund. The amount to be deposited in the Saving Bank Account of the depositor shall be reduced to the extent of such premium. In all such cases, the life Insurance Policy for which the premium is so paid shall be assigned in favor of the college;
- (ii) On retirement of the depositor from the service of the college policy shall be reassigned to him by the college. In case of maturity of the policy during the service of the depositor in the college, the full amount of the policy shall be credited to the Provident fund account of the depositor. In the event of the death of the depositor during his service in the college the full amount of the policy shall be paid to the legal successor of the deceased to the Provident Fund.
- (7) When a depositor's service in the college comes to an end by his retirement, Resignation or otherwise he shall be entitled to receive the entire amount standing to his credit in the Provident fund and family benefit scheme:
- Provided that a depositor whose service have been dispensed with on gross misconduct the Governing Body or who has been in the service of the college for a continuous period of less than two years from the date from which he was allowed to subscribe to the provident fund shall not be entitled to any part of the contribution made by the college or to the interest accrued thereon:
- Provided further that in the event of the death of depositor during his service in the college, the entire amount standing to his credit shall be paid to the legal successor of the deceased.
- Note:* The provisions of the first proviso shall not be invoked in the case of an employee, who is prevented from rendering the minimum two years service by reason of death, disability which in the opinion of the Governing Body prevents him from rendering further service or any scheme of retrenchment affecting such employee.
- (8) The Governing Body shall frame rules for temporary advances from the Provident Fund, which shall, interalia include the following as the legitimate objects for such advance;
- (a) to meet expenses in connection with the prolonged illness of the subscriber or any person actually dependent on him;

- (b) to pay for overseas passage for reason of health or education of the subscriber or any person actually dependent on him;
 - (c) for meeting obligatory expenses, on a scale appropriate to the applicant's status, in connection with marriages, funerals and religious ceremonies;
 - (d) to purchase land or building for his residence or for the construction of a residential house.
- 37.(1) The employees including the teachers of the college shall be entitled to leave in accordance with the leave rules of the Government of Madhya Pradesh in force and as applicable to Government Servants in vacation and non-vacation departments. All posts of teachers other than the Principal shall be vacation posts.
- (2) In case of teachers leave other than casual leave shall be sanctioned by the Governing Body. Casual leave in case of the Principal shall be sanctioned by the Chairman of the Governing Body and in case of other teachers by the Principal.

Part IX-Miscellaneous

38. (1) The College shall have its own Fund and all receipts of the college such as fees, donations, grants, interest on investments and Endowment Fund and borrowing shall be carried to the fund.
- (2) All moneys belonging to the Fund shall be deposited in such Bank or Invested in such manner as the Governing Body may decide.
 - (3) All expenditure, as may be sanctioned by the Governing Body, for the Purpose of the College, shall be met from the Fund.
 - (4) The fund of the college shall not be used for meeting any expenditure or giving any loan to the Foundation Society or any other Institution run by the Foundation Society.
- 39.(1) In addition to such registers and records as the Governing Body may require to be maintained, every college shall maintain such registers and records as may be prescribed by the Executive Council.
- (2) Accounts, registers, proceedings of meetings and other records of the College shall be open to inspection, on all working days during office hours, by members of the Governing Body and persons appointed by the Executive Council to conduct any inspection.
40. No person connected with the management of the college and no Principal or, other teacher or other employee thereof shall directly or indirectly take or receive or cause to be taken or received any contribution, donation, fees or any payment of any sort either in cash or in kind, other than or in excess of the fees prescribed by the University, from or on behalf of any pupil as a condition for granting him admission to the college or pursuing a course of study therein and all such amounts paid by the students shall form part of the receipts of the college.

41. Any dispute arising out of the contract of service between the Governing Body of the College and any of its teachers shall at the request of the teacher or the Governing Body be referred by the Vice Chancellor to a tribunal consisting of one nominee of the Vice Chancellor other than a member of the Executive Council who shall be the Chairman and one nominee each of the teacher and the Governing Body and the decision of the tribunal shall be final.
42. Notwithstanding anything contained in the provisions of this Statute a Non-Government College of Health Education may be administered by the Executive Body of the institution by whatever name called constituted in accordance with the bye-laws/regulations of the institution.

Provided that: -

- (i) The executive body of the institution shall have amongst its members at least two representative elected from amongst themselves by the teacher of the institution, other than the Principal who have completed at least two years of service in the institution;
- (ii) All the appointments to teaching posts in the institution, not lower than that of a teacher and other than those which use to be filled by promotions shall be made on the recommendation of selection committee which shall have amongst its members at least two expert in the subject concerned nominated by the Vice Chancellor;
- (iii) The provisions of Suspension, Penalties and disciplinary authority” of this statute shall apply in case of both the teaching and non-teaching staff of the institutions.

APPENDIX

Form of Agreement of Service for Teachers

An Agreement made this _____ day of _____ between Shri _____ (hereinafter called the teacher) of the first part and the Governing Body of the _____ College (hereinafter called the Governing Body), acting through its Chairman/Secretary of the second part.

Whereas the Governing Body has appointed Shri _____ as a member of the Teaching Staff of the _____ College upon the terms and conditions hereinafter set out and as provided in the College Code Statute. Now this agreement witnesses that party of the first part and the Governing Body hereby contract and agree as follows:—

1. That this agreement shall begin from the _____ day of _____ and shall be determinable as hereinafter provided.
2. That the party of the first part is employed on probation for a period of one year and shall be paid a monthly salary of Rs. _____ in the pay scale of Rs. _____. The period of probation may be extended by such further period as the party of second part may deem fit, but the total period of probation shall, in no case, exceed two years. The

teacher shall be deemed to have been confirmed in his appointment unless not later than one month before the expiration thereof the Governing Body informs him in writing of its intention not to continue him.

3. That on confirmation the Governing Body shall pay to the teacher during the continuance of this engagement salary in the pay scale of Rs. _____ and no increment shall be withhold without the approval of the Governing Body.
4. That the teacher shall during the continuance of his engagement be entitled to the benefit of the Provident Fund maintained by the Governing Body in accordance with the provisions laid down in the College code.
5. That the date of birth of the party of the first part is _____ and the age of Superannuation will be sixty two years, the actual date of retiring shall be the last day of the academic year in which he attains the age of sixty two years.
6. That the Teacher shall be entitled to leave in accordance with the provisions of the College Code.
7. That the teacher shall devote his whole time to the service of the College and shall not, without the permission of the Governing Body, engage directly or indirectly in private or any trade or business or other remunerative work which may interfere with the proper discharge of his duties, but this prohibition shall not apply to such benefits as accrue to him as an Examiner or Author of Books or due to his academic achievements.
8. That the party of the first part shall, in addition to the ordinary duties perform such other duties as assigned to him by the Principal of the college in connection with the social, intellectual or athletic activities of the college or examination or administration or the keeping of discipline in the college.
9. That after the confirmation, the services of the party of the first part can be terminated only on the following grounds:-
 - (a) Misconduct including willful neglect of duty;
 - (b) Breach of any of the terms of contract;
 - (c) Physical or mental unfitness;
 - (d) Incompetence
 - (e) Abolition of post.

Provided that—

- (i) The plea of incompetence shall not be used against the party of the first part after he has served at the party of the second part for two years or more after his confirmation.
- (ii) The services of the party of the first part shall not be terminated under sub-clause (c) without obtaining a certificate to that effect from a Medical Board to be appointed by the Governing Body.

- (iii) The services of the party of the first part shall not be terminated on any account without the previous approval of the Executive Council.
10. Except when termination of service has taken place under sub clause (a) or (b) of Statute 9 above neither the party of the first part nor the party of the second part shall terminate this Agreement, except by giving to the other party three months notice in writing or by paying to the other party a sum equal to three months salary, which the party of the first part is then earning. The period of notice referred to above does not include the summer vacation or any part thereof.
11. Nothing in this agreement shall affect the right of the party of the first part to apply for referring any difference or dispute arising out of this agreement to the Tribunal constituted under the Statute.
12. On the termination of this agreement from whatever cause, the teacher shall deliver up to the Governing Body all books, apparatus, records, and such other articles belonging to the College or to the University as may be in his possession.

The Governing Body shall clear the account of the teacher in respect of arrears of salaries, if any, and other dues that may be payable to him from the college within three months of the termination of this Agreement.

Signature Day of20—

(1)(Party of the first part)

(2) (Party of the second part)

In the presence of

(1) (Witness 1)

(2) (Witness 2)

STATUTE - XXIX
Constituent College

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedic Vishwavidyalaya (**Constituent College**) statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedic Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. **Objects of declaring as Constituent College**

The following shall be object of declaring as constituent Colleges

1. To provide the desired **Academic and Administrative Leadership** to propel the growth and development of the Institution.
2. To create the desired environment and develop the strategic framework to pursue a path of **Excellence in Medical Education**.
3. To lay a firm and everlasting foundation for growth of **Quality Medical Education** in the Institution.
4. To develop the Institution as a model for **Curriculum Innovation and Examination Reforms**.
5. **Development of professional and moral values in the faculty**, students and the staff.
6. To foster the **growth of well informed knowledgeable and talented Health manpower** to work in the state and the country
7. To facilitate **synergic partnership** with the Health Institutions of the state and the country.,
8. For transforming Medical education into a **vibrant and dynamic system**.
9. To foster **Research Culture** and promote international consultancy.,
10. To foster **international and national collaboration** for academic programmes for research and development,

4. **Absorption / Integration of Teaching and other Staff of the affiliated College, which is proposed to be declared as constituent:**

There shall be a option for the staff to take the permanent absorption in the University Services and those not willing for absorption, their services shall be taken on deputation, in the first instant as per the rules of the State Government and of the College Management as the case may be. All the posts available in the budget of the College

shall be transferred by the appropriate authority or the Institution to the University.

The faculty and staff of the Constituent College shall be treated at par with the University Teaching Departments of the University.

5. Management of the Constituent Institution

For all purposes, the sustenance and development of the constituent Institution shall be a responsibility of the University. In fulfilling its responsibility, the University shall:-

- (a) Recruit and develop faculty of the constituent Institution,
- (b) Investment in the development of the Institution,
- (c) encourage revenue generation in the Institution through various means,
- (d) formulate the Institution budget and manage its finance
- (e) provide governance to the Institution through the University executive council.

6. Status of the Students/ Courses

All the students shall be treated as the students of the University Constituent College.

All the courses of the concerned Institution admitted to the privileges of the University, shall be continued and treated as the courses of the Constituent College.

7. Transfer of the movable and immovable property of the College

As soon as the College is admitted to the privileges of the University as Constituent College all its assets and liabilities movable and immovable property with the entire land roads and building shall stand as transferred to the University and shall be treated as University property in all the records maintained by the Revenue Department other Corporate Agencies, subject to the approval or the State Government. The University shall not be bound to pay any cost towards this property.

STATUTE -XXX Autonomous College

1. **Short title.**— This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Autonomous College) statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meanings as assigned to them in the Act.

3. **Objectives of Autonomy** – The following shall be the objectives of Autonomy:

- (a) To bring about radical changes with the concept of new educational policy, the autonomous Colleges shall have the freedom to:—

1. determine its new courses of study and syllabi;
 2. prescribe rule of admission, subject of course to the reservation policy of the State Government, and /
 3. evolve methods of evaluation and to conduct examinations.
- (b) The autonomy shall be a means to achieve higher standards and greater creativity in the future. The parent University of an autonomous College shall continue to confer degrees upon the candidates declared eligible, on successful completion of the prescribed syllabi and valuation by the autonomous Colleges. An autonomous College shall thus be fully accountable for the content and quality of education that it imparts. The autonomous College shall be responsible for evaluation of the students for awards of degree, which shall be accepted by the parent University.
- (c) Promotion of National Integration, interwoven with technology awareness shall be an important feature of the autonomous Colleges through their academic programme and other activities.
4. The University shall have power to confer degrees, titles, diplomas and other academic distinctions on persons who shall have pursued an approved course of study in an autonomous College and to designate any College as an autonomous College with the concurrence of the State Government in the manner and under conditions prescribed and to cancel such designation.
5. (a) The Executive Council shall have the power to prescribe, in consultation with the Academic Council, the manner in which and the conditions subject to which a College may be designated as **autonomous College** and also such designation may be cancelled.
- (b) The Executive Council shall have the power to designate any College as an autonomous College with the concurrence of the State Government and to cancel such designation.
- (c) The Executive Council shall not propose the draft of any Statute or of amendment to Statute affecting the conditions affiliation or approval of affiliated or approved College with the University, as the case may be, or affecting conditions of designation of any College as an autonomous College, except after consultation with the Academic Council.
6. The Executive Council may confer the status of autonomy on an affiliated College to conduct specified course of studies subject to the conditions set forth below: -
- (1) An affiliated College having not less than ten years of standing and have been accorded permanent affiliation shall be eligible for the conferment of autonomy to conduct specified courses of studies.
 - (2) an autonomous College shall offer instructions only upto degree and postgraduate courses both of Part-time and Full-time durations.
 - (3) An autonomous College shall have autonomy in the matter of :—
 - (a) framing syllabi course contents strictly adopting the general pattern of the

University. The course contents and pattern should be framed in such a manner so as to utilize the services of existing staff and avoid as surplus for redeployment.

- (b) arranging for instructions to students.
 - (c) devising methods of evaluation, examination and tests without compromising the secrecy pertaining to award of the degree or diploma by the University; and
 - (d) admission of students, in respect of courses of studies for which autonomy is conferred.
- (4) The autonomous College shall have power to make rules or bylaws not inconsistent with the Act and the laws framed thereunder for the purposes of securing the objectives for conferring the status of autonomy to the College.
7. There shall be a Governing Body of the College consisting of the following persons: -
- (1) three members to be nominated for a period of 2 years by the management of the College of whom one shall be the chairman. The person so nominated shall include at least one outstanding educationist/scientist/technocrat/ jurist/management expert;
 - (2) two senior most teachers of the College to be nominated by rotation according to seniority, by the Director/Principal for a period of two years;
 - (3) one nominee of the University not below the rank of Professor;
 - (4) one nominee of the State Government;
 - (5) one nominee of the University Grant Commission; and,
 - (6) the Principal of the College – Ex-officio Member-Secretary.
8. Term of the Governing Body: —The term of the nominated member specified in clause (e) to Statute 9 to this Statute above shall be for a period of two years and the same persons except for members specified in clause (a) and (b) of Statute 9 to this Statute above shall be eligible for re-nomination for another term.
9. Meeting of the Governing Body:— The Governing Body shall meet at least thrice a year.
10. Functions of the Governing Body: - The following shall be function of the Governing Body: —
- (1) to lay down service conditions, emoluments, traveling allowances for the teaching and non-teaching staff in the College;
 - (2) to lay down procedure for selection/ recruitment of teaching or non-teaching staff and to appoint the same in the College;
 - (3) to regulate and enforce discipline among members of teaching and non-teaching staff in accordance with the rules/ procedures laid down in this regard;
 - (4) to invest any money belonging to the College in stocks, funds, shares or securities as it shall from time to time, think fit or in the purchase hire/rental of immovable property;

- (5) to transfer of any movable or immovable property of the College;
 - (6) to fix the fees and other charges payable by the students of the College on the recommendation of academic council subject to the approval of the Finance Committee.
 - (7) to entertain, adjudicate upon and if thought fit constitute a Committee for advice to redress the grievances of the members of staff and the students;
 - (8) to delegate administrative and financial powers to the principal and other functionaries in the College for its smooth functioning ;
 - (9) to accept endowments for specific purpose;
 - (10) to approve Institution of new programmes of study leading to degrees and / or diplomas.
 - (11) to approve annual report of the College ;
 - (12) to approve the foreign trips/tours/assignments/ research paper readings of the College employee; and
 - (13) to perform such other function and institute committees as may be necessary and deemed fit for the proper development and fulfilment of the objectives for which the College was established and the national concern.
11. (1) The autonomous College shall set up Boards of Studies in the Subjects concerned and an Academic Council.
 - (2) The decision of the Academic Council constituted under the preceding Statute on academic matter shall generally be implemented by the Managing Body of the College on which there shall be a representative of the University.
 - (3) The Boards of Studies shall consist of: —
 - (a) Head of the Department of the subject in the University or his nominee.
 - (b) Head of the Department of the subject concerned in the College, not below the rank of the reader,
 - (c) not more than two Faculty Members of that subject in the College.
 - (d) not more than two experts from outside the College/ University.

The University shall prescribe qualification to restrict the numbers under this category with reference to the number of years of service etc.
 12. The Governing Council shall have a nominee of the University, the Director of Medical Education or his nominee besides two faculty members of the College by rotation according to College seniority, irrespective of faculties.
 13. The Board of Studies set up by the autonomous College shall have external Experts including an expert from the University.

14. (1) The Academic Council shall consist of:—

- (a) The Director/Principal of the College – Chairperson
 - (b) All Heads of Departments-Member
 - (c) One Professor from each of the Department by rotation for a period of one year according to seniority-Member
 - (d) One Reader from each Department by rotation for a period of one year according to seniority-Member
 - (e) Three University representatives nominated by the Vice Chancellor-Member
 - (f) Director of Medical Education or his nominee-Member
 - (g) The Chairman and the Secretary of the Governing Body-Member
- (2) In the absence of the Principal/ Director, the Principal-in-charge/ Director-in-charge shall be the Chairman of the Academic Council,
 - (3) The Academic Council constituted by the autonomous College shall involve faculties of the College at all levels and specialist appointed by the University.
 - (4) The courses of studies, scheme of examinations and syllabus approved by the College Academic Council shall be submitted to Academic Council of the University for final approval.
 - (5) The process and conduct of examination may be inspected at any time and scrutinized by a person nominated by the Academic Council of the University for maintaining the academic standard.

15. (1) There shall be a Finance Committee consisting of the following persons; -

- (a) The Director/Principal of the Institution - Chairman.
 - (b) one persons to be nominated by the Governing Body of the College for a period of two year,- Member
 - (c) One senior-most teaching staff member of the College to be nominated in rotation by the Director/ Principal for two years, - Member
 - (d) Controller Finance of the University or his nominee not below the rank of Dy. Registrar. -Member
- (2) The Finance Committee shall be an advisory body to the Governing Body and shall meet at least twice a year.
 - (3) All proposals relating to creation of posts, sanction of expenditure, annual accounts, financial estimates and audit reports shall be put up by the Director/Principal of the College before the Finance Committee for advice and recommendations to the Governing Body.

- (1) There shall be a Planning and Evaluation Committee consisting of the following persons:—
 - (a) The Director/Principal of the College; Chairman.
 - (b) Two Head of Departments to be nominated by rotation, in order of seniority by the Director/ Principal; -Member
 - (c) Two expert nominee of the University; -Member
 - (d) One expert from outside the College/University to be nominated by the Governing Body. -Member
 - (e) Librarian of the College. -Member
 - (f) One teaching staff other than Head of Department to be nominated by the rotation in order of seniority by the Director/Principal. -Member
 - (g) One non-teaching member of the staff to be nominated by the rotation in order of seniority by the Director/Principal; -Member
 - (h) One postgraduate or anyone under-graduate student to be nominated by the Director/ /Principal on the basis of academic performance; -Member
 - (i) One outstanding sportsman/ sports woman of the College. -Member
- (5) Term of the Planning and Evaluation Committee; -The term of the nominated members shall be two years. The expert nominee of the University and the Governing Body shall be eligible for re-nomination.
- (6) Meeting of the Committee: -The Committee shall meet at least twice a year.
- (7) Functions of the Committee: - The Committee shall advice the Director/Principal, the Governing Body and the Academic Council on;
 - (a) The plans for development of the College and measures necessary to check deterioration in the standards of teaching and discipline in the College;
 - (b) On ways and means to implement different program and the general welfare activities in regard to the staff and students; and
 - (c) Measures necessary for general improvement in the working of the College.

16. Admission of the students to courses of studies offered by the autonomous College shall confirm to the minimum qualifications laid down by the University for the courses of study concerned, subject to the Act and rules of reservation of candidates belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes as laid down by the State Government from time to time.

17. The University shall have the power to confer degrees, titles, diplomas and other academic distinctions on persons who shall have pursued an approved course of study in an autonomous College. The name of the autonomous College shall however be indicated in the diploma issued to candidates.

18. (1) An affiliated College may be conferred the status of autonomy for a period not exceeding five years in first instance, subject to review of the functioning of the College at the end of three years.

(2) It shall be competent for the Executive Council to extend the period beyond five years on an application made by the College.

19. The Executive Council shall have the power to revoke the autonomy conferred at any time after scrutiny and after giving due notice of such intention to the College concerned before the expiry of the period in the case of deterioration standards or for any other good cause.

20. (1) Notwithstanding the conferment of an autonomous status on any affiliated College, all provisions of the Act, Statutes, the Ordinances and the regulation of the University shall be applicable to the College except those relating to matters to specified in this statute. The University shall continue to exercise its general power of supervision over such College.

(2) The University shall have power to constitute an Advisory Body to monitor the functioning of these Colleges.

21. The Executive Council shall decide from time to time on the invitation to Colleges to apply for autonomous status in pursuance of which the Registrar after scrutiny shall place all such application before the Executive Council for consideration and Executive Council shall decide on the applications according to the criteria specified for the purpose.

22. The College shall pay to the University a fee of Rs. 25,000 (Rupees Twenty Five Thousand Only) along with the application for grant of autonomous status.

23. The Executive Council shall make such inquiries as may be necessary with regard to the applications for autonomy and in consultation with the State Government take its decisions on the basis of such inquiries.

STATUTE -XXXI

Appointment of Nonteaching Employees

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Appointment of Nonteaching Employees) statute, 2013

2. **Definition.**— In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. **State government rules – applicability.**— Unless otherwise mentioned in the Act, Statutes, Ordinances and Regulations of the University, the M.P. Civil Services (General Condition of Services) rules 1961 and Madhya Pradesh Civil Services (Classification, Control & Appeal) Rules 1966, as amended from time to time by the State Government, shall apply for the purposes of this Statute.

4. Classification, scales of pay and number of posts.—The classification of services, the pay bands and grade pay attached thereto and number of posts shall be as per the sanction of the State government.

5. Reservation.—(1) Reservation in the matter of appointment and promotion for the candidates of Schedule Caste, Schedule Tribe, Other Backward Classes etc. shall be as per the rules of the state government applicable to the University nonteaching employees of the University.

(2) There shall be reserved posts for the persons belonging to the scheduled castes, scheduled tribes and other backward classes at the stage of direct recruitment in accordance with provisions contained in the Madhya Pradesh Lok seva (Anusuchit Jatiyon Anusuchit Janjatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994 (No. 21 of 1994) and orders issued by the State Government from time to time.

(3) There shall be reserved post for women candidates in accordance with the provisions of Madhya Pradesh civil services (special provision for Appointment of Women) Rules, 1997.

(4) There shall be reserved post for handicapped candidates in accordance with the direction Of General Administration Department Government of Madhya Pradesh.

6. Advertisement, application.— The selection and appointment in the case of direct recruitment shall be made only after advertisement. Candidate shall apply at least three weeks time from the date of publication of advertisement on the application form prescribed by the University.

7. Conditions of eligibility for direct recruitment.— in order to be eligible for competitive examination/selection, a candidate must satisfy the following conditions, namely:-

- (1) In accordance with the rules framed by the state government the age of the candidate may not exceed the age prescribed.
- (2) Educational qualification; - the candidate must possess the Minimum qualifications for any post which shall be as decided by the Statutes/ Ordinances/ Regulation of the University taking into consideration qualifications, if any, laid down by the State Government for that post.
- (3) The candidate shall have to pay the fees prescribed by the University.

8. Screening committee : A screening committee shall be appointed by the Vice-Chancellor from among the teachers and officers of the University to scrutinize the applications of the candidates on the basis of the documents enclosed with the application form and to verify whether the candidate possess minimum qualifications or not. Only those applications shall be processed further which possess the minimum qualifications. In case of any dispute, the decision of the Vice-Chancellor as to the eligibility of a candidates for examination/ selection shall be final candidate to whom a certificated of admission has not been issued by the Appointing Authority shall not be allowed to appear in the examination/interview.

9. Disqualification .— (1) Any attempt on the part of a candidate to obtain support for his candidature by any means may be held by the Appointing Authority to disqualify him for

appearing in the examination, interview or selection.

(2) A candidate shall not be eligible for any service or post who has married before attaining the age prescribed for marriage.

(3) A candidate shall not be eligible for any service or post who have more than two living children one of whom is born on or after the 26th of January 2001.

Provided that no candidate shall be disqualified for appointment to a service, or post who has already one living child and next delivery takes place or after 26th day of January 2001, in which two or more than two children are born.

10. Recruitment to the service.— (1) Recruitment to the service shall be made by the following methods, namely: —

- (a) By direct recruitment by competitive examination/ selection/ interview;
- (b) By promotion of members of service as specified in Statutes/Ordinances/ Regulation from time to time.
- (c) By transfer of persons who hold in a substantive or officiating capacity in such posts in service as may be specified in this behalf by the Vishwavidyalaya; The number of persons recruited under clause (a), clause (b) and clause (c) of this statute shall not, at any time exceed of the number of posts sanctioned by the state government.

(2) (a) All appointments of nonteaching employees of the University shall be made strictly on the basis of merit, through a selection committee. The methods adopted for selection shall be decided by the Vice-Chancellor from among the following methods:

1. Written examination to be conducted by the University.
2. Practical evaluation of performance, necessary for the posts, by experts appointed by the Vice-Chancellor.
3. Interview by the Selection Committee.

Provided that for all technical posts, including those requiring use of Computers, shall not be made without following the method (ii) mentioned above.

- (b) The selection committee shall prepare and forward a list to the Appointing Authority arranged in order of merit of the candidates, and a list of candidates belonging to the scheduled castes, scheduled tribes and other Backward Classes, who though not qualified by that standard, but are declared by the selection committee to suitable for appointment to the service with due regard to the maintenance of efficiency in administration.
- (c) Temporary Vishwavidyalaya employee, contingency paid employees, work charged employees and employees working in the projects of this vishwavidyalaya will also get additional benefit of 20 marks in the preparation of final merit list, If they have completed at least 6 years of service (240 days in a calendar year)

(3) Subject to the provisions of these Regulations and Madhya Pradesh Civil services (General Conditions of Service) Rules, 1961, candidates shall be considered for appointment to

the available vacancies from the list

(4) The inclusion of a candidate's name in the list confers no right to appointment unless the Appointing Authority is satisfied after such enquiry, as may be considered necessary that the candidate is suitable in all respects for appointment to the service

(5) The select list shall be valid for a period of one year from date of approval by the appointment authority. Appointment orders of all service personnel shall be issued by the Registrar of the Vishwavidyalaya.

(6) Out of the names recommended by the selection committee the Vice-Chancellor shall make appointments to the vacancies.

(7) Daily paid wagers, who had been engaged continuously in the Vishwa Vidyalaya in various capacity of class III and IV posts as well as Drivers before the enforcement of these statutes/ regulations, may be considered for regularization, by the vice chancellor, on the recommendation of selection committee, if they fulfill all the necessary eligibility criteria.

(8) The Registrar, Madhya Pradesh Ayurvigyan Vishwavidyalaya Jabalpur shall arrange for all the required formalities according to the rules of the University.

11. Selection Committee.— The members of the Selection Committee shall be as follows:

- (1) Chairman.— Vice-Chancellor's or his nominee not below the rank of Professor,
- (2) Member Secretary.— Registrar or in his absence a Deputy Registrar nominated by the Vice-Chancellor.
- (3) Member.— One expert nominated by the Vice-Chancellor, other than those who conducted the practical evaluation of candidates.
- (4) Member.— One Professor of the University Teaching Department nominated by the Vice-Chancellor:

Provided that if Professor in the University Teaching Department is not available then any Principal or Professor in a Government College affiliated to the University may be nominated by the Vice-Chancellor.

- (5) Member.— One Professor/Associate Professor of the University Teaching Department belonging to SC/ST/OBC category nominated by the Vice-Chancellor.
- (6) Member.— Finance Controller or in his absence a Deputy Registrar nominated by the Vice-Chancellor.

- Chairman, Member Secretary and an expert – these three members shall form the quorum.
- The term of the members in clause (iii), (iv) & (v) above shall be as decided by the Vice-Chancellor.
- Meeting of the Selection Committee shall be convened under the orders of the Vice-Chancellor.
- A member of Selection Committee, having personnel interest in one of the

candidates related to him, shall withdraw from the meeting, when the selection is under consideration.

12. Conditions of service.—The conditions of service of employees shall be those as prescribed in Statutes/Ordinances/ Regulation of Madhya Pradesh Ayurvigyan Vishwavidyalaya Jabalpur.

13. Probation.—(1) Ordinarily appointment against a permanent post shall in the first instance be on probation for a period of two years. The period of probation may be extended by the appointing authority, but in no case the total, period of probation shall exceed three years.

(2) A person shall ordinarily be appointed to a post in University service on production of a certificate of health and physical fitness given by a government medical board. The certificate must be affixed to the first pay bill of the employee.

(3) If the appointing authority does not find that the work and/or conduct of the employee on probation are satisfactory, his services may be terminated. In case of termination of the services of the employee on probation, one month's notice shall be given to him or in lieu of notice he shall be paid salary of one month. The probationer may also leave the University by giving one month's notice or one month's salary to the University.

(4) If the probationer was appointed by promotion and his work and/or conduct is not satisfactory the appointing authority may revert him to the post held by him before such appointment and such reversion shall not be deemed to be a penalty.

14. Appointment by promotion.—(1) There shall be also a committee consisting of the members as above for making a selection for eligible candidates.—

(2) The departmental promotion committee shall meet at such intervals as directed by Appointing Authority but ordinarily not exceeding one year.

(3) Selection procedure and appointment by promotion shall be in accordance with the provisions of the Madhya Pradesh Public Service (Promotion) Rules, 2002 and instructions issued by General Administration Department of Government of M.P from time to time.

(4) Certification by Appointing Authority.—Appointing Authority shall on every promotion order issued by him, shall make endorsement to the effect that he has complied with the provisions of Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Jatiyon Aur Anya Pichade Vargon Ke Liye Araksan) Adhiniyanm, 1994 (No. 21 of 1994) and Madhya Pradesh Public Service (Promotion) Rules, 2002 and instructions issued by the State Government.

15. Preparation of the list of suitable candidates.—(1) The Departmental Promotion Committee shall prepare a list of such persons who are found suitable for promotion to the service in accordance with provisions Madhya Pradesh Public Service (Promotion) Rules, 2002. A reserve list of 25% of the numbers of persons included in the said list shall be proposed in order to fulfil unforeseen vacancies occurring during the year.

(2) The name of the persons included in the list shall be arranged in order of seniority in the service or posts, at the time of preparation of each select list.

(3) The List so prepared shall be reviewed and revised every year.

16. **Select List.**—(1) The appointing Authority shall consider the list prepared by the committee along with the other documents received from the committee.

(2) If the Appointing Authority considers it necessary to make any change in the list received from the committee he shall inform the committee of the change proposed and the committee, may approve the list finally with such modification.

(3) Promotions may be made from the list, as finally approved by the Appointing Authority.

17. **Appointment in service from the Select list.** —Appointment of persons in the select list shall follow the order in which the name of such candidates appear in the select list.

18. **Appointment on Contract/daily wages.**—Temporary appointment may be made to a temporary post or in a leave vacancy in respect of a permanent post. Appointment of non skilled and skilled workers may be made by the Vice-Chancellor as may be required for smooth working of the University on Contract/ daily wage basis, against the vacant posts. Ex-Serviceman/ retired government servant, with good service record can be appointed on contractual basis by the Vice-Chancellor on the recommendation of the selection committee.

19. The selection in the case of direct recruitment quota may be outsourced to the agency like Madhya Pradesh professional examination board Bhopal (VYAPAM) / Others, as per the guidelines of government of Madhya Pradesh. In case of outsourcing the University may decide to take aptitude test and final interview among the pool of selected candidates provided by the outsourcing agency. In case of any controversy the decision of Vice-Chancellor shall be final.

20. Daily paid wages who had been engaged continuously in the Vishwavidyalaya in various capacity of Class III and Class IV posts as well as drivers before the enforcement of these regulation may considered for regularisation by the Vice Chancellor, on the recommendation of the Selection committee, if they fulfil all the necessary eligibility criteria.

STATUTE - XXXII

Pension Scheme

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Pension Scheme) statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

(a) “ Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);

- (b) “ words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The State Government has formulated a pension scheme called ‘New Pension Scheme’ for its employees (Vide circular No. F9/3/2003/Niyam/Char, dated 29/12/2005 of the State Government). The same scheme shall also be applicable to the University employees.

4. The New Pension Scheme shall be applicable to all new regular employees appointed in the University. It shall also be applicable to permanent members of contingency and work charge service. It shall not be applicable to temporary members of contingency and work charge service, daily wage employees and contract employees.

5. Any other scheme similar to the M.P. Civil Services Pension Rules, 1976 and M.P. General Provident Fund Rules, 1955 applicable to state government employees, shall not be applicable to University employees. Provided that any employee who was in the regular service before 1.1.2005 in the state government or in a state University and is subsequently appointed in this University while maintaining continuity in service according to state government rules or is on deputation in this University, then the M.P. Civil Service Pension Rules, 1976 and M.P. General Provident Fund Rules, 1955 and similar schemes of state universities will remain applicable to him.

Tier –1 of New Pension Scheme

6. In the New Pension Scheme, a ‘Pension Fund’ will be established for each employee. The University will administer the Pension Fund by depositing it in a scheduled bank designated by the University for this purpose, so that the amount may earn maximum interest and not less than the rate declared by the State Government for the Pension Fund of its own employees. The account will be in the joint name of the Registrar and the employee.

7. Every employee who joins the service in the University, shall fill up a form (Appendix-I) giving information regarding himself, i.e., name, father’s name, date of birth, address, designation, department/section, date of joining, pay band, Grade pay, basic pay, name of nominees, relation with nominees along with their age, etc. The form will be filled in four copies and will be forwarded to the Registrar of the University by the Head of the department/ in charge of the section. An account of the Pension Fund of the employee will be opened in the bank as mentioned in para 5 above. The account number allotted by the bank will become the employee’s index number. This index number will be entered on the said form by the University office. The form will then be signed by the Registrar. One copy of the form will be kept in establishment section and another in accounts section of the University_ One copy will be kept in the department/section and one copy will be returned to the employee for his own record.

8. The employee shall contribute 10% of his basic pay + dearness pay + dearness allowance to the Pension Fund. The University shall also contribute equal amount in the Pension Fund. Part of a rupee will be treated as a rupee while calculating the contribution. Apart from the dearness allowance, no other allowance/special pay shall be included while calculating the employee’s contribution.

9. (1) The employee's contribution shall be deducted from the salary of the employee every month. Provided that the deduction shall not be made from the salary of that month in which the employee joins the services. The deduction shall start from the next month's salary.

(2) Every employee will be issued a yearly account slip of the amount deposited in the Pension Fund and the interest accrued in the financial year as per Appendix-II.

(3) Interest will be accrued on the amount deposited in the Pension Fund. The rate of interest will be the same as declared by the state government for provident fund from time to time.

(4) After retirement of an employee, 40% of the total amount deposited in his account along with interest shall be compulsorily invested for purchasing annuity of an I.R.D.A. (Insurance Regulatory and Development Authority) regulated life insurance company through which he will get monthly pension. The remaining 60% amount shall be given to the employee in a single instalment.

10. (1) If an employee leaves the service before retirement, then 80% of the total amount deposited in his account along with interest shall be compulsorily invested for purchasing annuity of a I.R.D.A (Insurance Regulatory and Development Authority) regulated life insurance company, through which he will get monthly pension. The remaining 20% amount shall be given to the employee in a single instalment.

(2) If an employee dies before retirement, then the whole amount deposited in his account along with interest shall be paid to the eligible member/members of the family, in a way, similar to that in which the exgracia amount is paid.

(3) During the period of service of an employee, no amount shall be allowed to be withdrawn from the Pension Fund of the employee for any reason whatsoever.

Tier – 2 of New Pension Scheme

11. Tier - 2 will be a voluntary deposit account and will be an alternative to the General Provident Fund in which no contribution will be made by the University. The employee will be free to withdraw amount partially or wholly from this account. Tier - 2 will be implemented as and when the state government implements it and in the manner prescribed by the State Government.

12. In case of a situation, not covered above, the rules of the state government shall be applicable.

APPENDIX – I

Form to be filled by the employee on first appointment in the University.

(To be filled in four copies)

1. Name of the employee

(in Hindi)

(in English)

2. Father's/Husband's name
3. Mother's name
4. Date of birth
5. Permanent address
6. Present address for correspondence.....
7. Designation of the post on which appointed.....
8. Department/section in which posted
9. Date of joining
10. Pay band
11. Grade pay
12. Basic pay
13. Nomination for the amount deposited in Pension Fund :

S.No.	Name of Nominee/Nominee	Age	Portion of Pension Fund in percentage	Relation with the employee
(1)	(2)	(3)	(4)	(5)

Date

.....
Employee's signature

(To be filled by University office)

1. Name of the bank
 2. Account number of Pension Fund in the joint name of the Registrar and employee.....
 3. Index number of employee
- (which will be the same as above account number).

.....

Registrar

Copy to:

1. Establishment section
2. Accounts section
3. Department/section
4. Employee concerned

.....
Registrar.

APPENDIX -II**YEARLY ACCOUNT OF PENSION FUND**

FINANCIAL YEAR 20__20__

1. Index No.....

(which will be same as the account number in bank)

2. Name of employee

3. Designation

4. Department/section.....

5. Date of first appointment in the University

6. Date of superannuation

Month	Year	Basic Pay	Grade Pay	Dearance Pay	Dearance Allowance	Total	Employee's Share 10% of Total	University Share	Total	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Apr. 20.....

May. 20.....

Jun. 20

Jul. 20.....

Aug. 20.....

Sep. 20.....

Oct. 20.....

Nov. 20.....

Dec. 20.....

Jan. 20.....

Feb. 20.....

Mar. 20.....

Total amount deposited in year

Previous balance

Interest

Balance amount at the end of year

.....

Date.....

Registrar

STATUTE - XXXIII

Gratuity Scheme

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Gratuity Scheme) statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) "Statute" means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) "words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. **Application.**—(1) This Statute shall be applicable on all employees, officers and teachers of the University who are eligible for Employee's contributory Provident Fund Scheme as given in Statute 1.

(2) An Employee joining the University on deputation shall, in the event of permanent absorption in the University shall be allowed the benefit of Gratuity scheme under this Statute from the Date of his permanent absorption, or as per the Conditions laid down in the deputation terms and conditions of the Employee prior to his absorption in the University.

4. **Creation and Constitution of University Employees Gratuity Fund.**— In order to meet the expenditure on gratuity disbursement the University should opt group gratuity scheme of Life Insurance Corporation of India.

The Gratuity fund so created shall constitute out of the following amount contributed by the University to the Life Insurance Corporation of India.

- (1) Present value of total Gratuity.
- (2) Initial Contribution.
- (3) Amount of Annual Contribution.
- (4) Amount of One Year Renewable Term Assurance (OYRTA) Premium.
- (5) Service Tax @ 12.24% on Risk Premium.

5. **Continuous Service.**— The Employee shall be eligible for Gratuity after continuous service of Five Years. The Condition of continuous service of Five Years shall not be necessary where the termination of the employment of any employee is due to death or disablement.

6. **Payment of Gratuity.**— Payment of Gratuity should be made to the employees on the termination of his employment after he has rendered continuous service of not less than five years on the occurrence of any of the three events:-

- (a) On the employee reaching his superannuation age or
- (b) On his retirement or resignation or
- (c) On his death or disablement due to accident or disease.

In case of third event the qualifying continuous service of 5 years is not necessary.

7. Gratuity to whom payable.— Gratuity is payable to the employee on his superannuation or retirement or resignation. In the case of death of the employee, gratuity payable to him be paid to his nominee or if no nomination has been made, to his heirs and where any such nominee or heirs is a minor, the share of such minor be deposited with the controlling authority who invest the same for the benefit of such minor in such a bank or other financial Institution, as may be prescribed until such minor attains majority.

8. Nomination.— Every employee covered under the payment of Gratuity has a legal right to be paid gratuity as provided in this Statute. Each employee, who has completed one year of service, make a nomination so that in case of death, gratuity payable to him be paid to his nominee or if no nomination has been made to his heirs. An employee may in his nomination distribute the amount of gratuity payable to him under this Statute amongst more than one nominee.

If an employee has a family at the time of making a nomination, the nomination be made in favor of one or more members of his family and any nomination made by such employee in favor of a person who is not a member of his family be void.

9. Family.— Family in relation to an employee, be deemed to consist of –

- (1) In the case of a male employee, himself, his wife, his children whether married or unmarried, his dependant parents and the widow and children of his predeceased son if any, and.
- (2) In the case of female employee herself, her husband, her children whether married or unmarried her dependant parents and the dependant parents of her husband and the widow and children of her predeceased son, if any.

10. Manner of Calculating Gratuity.— The gratuity amount is calculated @ 15 days last drawn wages for every completed year of service, subject to maximum of 10.00 laces.

11. Formula for Calculating Gratuity.— $\text{Gratuity} = 15/26 \times \text{Number of Years of service} \times \text{last drawn salary (Basic + D.A.)}$

12. Application for Payment of Gratuity.— An employee who is eligible for payment of gratuity under the Gratuity Scheme Statute 2012 or any person authorized in writing to act on his behalf, apply ordinarily within thirty days from the date the gratuity becomes payable to the employee. Where the date of superannuation or retirement of an employee is known, the employee may apply to the employer before thirty days of the date of superannuation or retirement. An application be presented to the employer either by personal service or by registered post acknowledgement due ordinarily within thirty days from the date the gratuity becomes payable.

13. Application by Representative.— A nominee of an employee who is eligible for payment of gratuity shall apply ordinarily with in 30, days from the date of gratuity becomes payable to him by an application on plain paper with relevant particular to the Registrar. The Registrar may obtain such other particular as may be deemed necessary by him. A legal heir of an employee, who is eligible for payment of gratuity, shall apply ordinarily within one year from

the date of gratuity payable to him along with a legal heir certificate issued by the competent court.

14. Obligation of the Registrar.— It shall be the independent obligation upon the Registrar to pay the amount of gratuity due to an employee whether he asks for it or not. The Registrar shall as soon as gratuity becomes payable shall determine the amount of gratuity and give notice in writing to the person to whom the gratuity payable.

15. Adjudication of Disputes.—(1) If there is any dispute as to the amount of gratuity payable to an employee under this statute or as to the admissibility of any claim of an employee for payment of gratuity, the employee or person entitled to receive the gratuity may make an application to the Registrar. The Registrar shall after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine and pass an order of payment of the amount of gratuity payable to an employee. Any person aggrieved by the order of the Registrar may within sixty days from the date of the receipt of the order, prefer an appeal to the Vice –chancellor.

Provided that the Vice –chancellor is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by further period of sixty days.

(2) The Vice–Chancellor after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the Registrar.

STATUTE - XXXIV

Conditions of Service for University Employees

1. Short title.—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Condition of Services for University Employees) statute, 2013

2. Definition.— In this statute, unless the context otherwise requires,-

- (a) "Statute" means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) "words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

A. Part I : Classification of Post, Appointment and Tenure;

3. (1) Posts in the University shall belong to the class and shall carry the scales of pay as prescribed by the state government and adopted by the Executive Council of the University.

(2) The rates of dearness allowance on pay drawn in the scales shall be as may be sanctioned by the state government from time to time for its employees :

Provided that the rates at which dearness allowance is to be paid shall not be sanctioned by the Executive Council except with the prior approval of the state government.

4. (1) The whole time of University employee is at the disposal of the University and he may be employed in any manner required by the proper authority, without claim for additional remuneration.

(2) The Executive Council may permit a University employee to perform a specified service for a private person, body or Government and to receive a remuneration therefore in the form of a fee if it is satisfied that this can be done without detriment to his official duties or responsibilities :

Provided that the University employee shall be required to deposit the required percentage of amount of the fee, so received to the fund of the University as provided in state government rules except in cases covered by exception 4 below SR 2 of rule 47 of M.P. Fundamental Rules.

(3) The appointing authority may grant or permit a University employee to receive an honorarium as remuneration for work performed, which is occasional in character, Provided that the prior consent of the appointing authority has been obtained and the amount of the remuneration has been settled in advance.

(4) The Vice-Chancellor /Executive Council may depute a University officer/teacher/ employee to perform specified service for private Institution/body or government on deputation as per delegation of powers. The terms and conditions of deputation shall be as per state government rules in force from time to time.

5. The Head of the branch or department or Institution under whom the employee is working shall send to the Registrar in the form prescribed by the Vice-Chancellor.

(a) every year not later 31st May, a report on the work and conduct of the employee during the preceding year ending on 31st March.

(b) at least one month before the date of the expiry of the probationary period of a University employee a report about the work and conduct of the employee appointed to a permanent post stating his opinion about the employee's fitness or otherwise for confirmation in service.

6. A temporary appointment may be terminated by either party without assigning any reason by giving to the other one month's notice or one month's salary of the employee concerned in lieu thereof. No such notice or payment of salary shall be necessary in case of termination of service of work charge or contingency paid employee.

7. On confirmation on a permanent post, a University employee acquires a lien on that post. A University employee holding a permanent post substantively, if appointed substantively to another post, acquires a lien on the second post and ceases to hold any lien on the first one.

8. A permanent employee shall be required to give three months notice in case he wishes to resign or he shall pay to the University three month's salary in lieu of such notice. If the University terminates the services of a permanent employee, a notice to that effect shall be served on him three month before the date on which he is to be relieved. In the absence of such notice, the University shall pay him three month's salary. Such notice shall not be necessary if the employee is removed from service, dismissed or compulsorily retired :

Provided that where a permanent employee is relieved after three months notice by him or payment of three months' salary in lieu of such notice to take up appointment elsewhere, his lien shall be maintained in the University for a period of two years from the date of his relief or till the date of his confirmation on the other post, whichever is earlier.

9. (a) The services of a University employee may be terminated on any of the following grounds:

- (i) Wilful neglect of duty.
 - (ii) Misconduct.
 - (iii) Physical or mental unfitness.
 - (iv) When the post he is holding is abolished.
 - (v) Conviction in a court of law for an offence involving moral turpitude.
- (b) The following lapses would constitute misconduct on the part of persons holding teaching posts in the University Teaching Departments:
- (i) Failure to perform his academic duties such as lectures, demonstration, assessment, guidance invigilation, etc.
 - (ii) Gross partiality in assessment of students, deliberately over marking/Under marking or attempts at victimization on any grounds.
 - (iii) Inciting students against other students, colleagues or University administration.
 - (iv) Raising questions of caste, creed, religion, race or sex in his relationships with his colleagues and trying to use the above considerations for improvement of his prospects.
 - (v) Refusal to carry out the decisions by appropriate administrative and academic bodies and/or functionaries of the University. This will not inhibit his right to express his differences with their policies or decision.

10. Before leaving University service an employee, whether appointed temporarily or on probation or permanently shall hand over the charge of his post to the employee duly authorized to receive charge and shall return to the University all articles entrusted to him for his use and shall pay up in full all the charges due from him for occupation of residential quarters, if any, inclusive of Municipal taxes, water and electric charges etc. If he fails to do so, the Head of the branch or Institution in which he is employed shall have the right to recover the amount due from him from the arrears of salary due to him or from the University contribution to his Provident Fund.

11. A University employee shall subscribe to the New Pension Scheme in accordance with the provisions of the Statutes.

12. An employee of the University shall begin to draw the pay and allowances, if any; attached to his post with effect from the date he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties.

- (1) No University employee shall be granted leave of any kind for a continuous period exceeding five years;

(2) Where the University employee does not resume duty after remaining on leave for a continuous period of five years, he shall be deemed to have resigned and shall accordingly cease to be in University employment :

Provided that the Executive Council may determine otherwise, in any special case, in view of the exceptional circumstances.

(3) The pay of a University employee in the time scale of pay in which he is appointed shall be regulated by the Fundamental Rules applicable to the Madhya Pradesh Government. Annual increment shall ordinarily be drawn as a matter of course unless it is withheld.

B. Part II : Residential Accommodation :

13. (1) The Executive Council may make rules laying down the principles governing the allotment of such buildings or such portions thereof, as may be available to employees serving under the administrative control of the University for residential purposes.

(2) When University employees are provided with unfurnished University quarters, they shall pay monthly rent at the rates as prescribed by the state government for its employee according the type of accommodation provided.

(3) The employees who have not been provided with University accommodation shall be eligible to house rent allowance at the rates sanctioned by the state government for its employees subject to the conditions laid down by the state government for grant of such allowance.

C. Part III : Leave:

14. The rules for all kinds of leave to University employees, i.e., earned leave, half pay leave; extra ordinary leave, special disability leave, study leave, maternity leave, medical leave etc. shall be the same as applicable to the State Government employees in force from time to time.

15. (i) Casual Leave :

1. Casual leave cannot be claimed as right and its grant is always subject to the exigencies of service and subject to maximum of 13 days in a calendar year.

2. Casual leave may be granted as and when occasion arises at the discretion of the University.

(ii) Special Casual Leave

1. An employee summoned to serve as juror or assessor or to give evidence before the Court of Law as a witness in a civil or criminal case in which his private interests are not at issue may be given this leave. The leave so granted should be sufficient to cover the period necessary for such job.

2. It may also be granted when an employee is deputed to attend reference libraries of other Institutions and conferences or educational gathering of learned and professional society in the interests of the University or other academic work which will include working on the committees appointed by the Universities/Government/University Grants Commission, lecturing and examination work; Or such other work as may be specified by the Executive Council.

3. Special Casual leave under clause (ii) above shall be admissible only for Non remunerative work and shall not exceed fifteen days in a calendar year:

Provided that for non remunerative work on the committees appointed by the Universities/ Government/University Grants Commission, the Vice-Chancellor may, at his discretion, sanction special casual leave for a further period not exceeding fifteen days in a calendar year.

- (iii) In case of University employees selected under the various cultural exchange/national lecture/exchange programme etc. sponsored by the government of India/state government/U.G.C. and other statutory bodies as a member of delegation or to deliver specialised lectures in India or abroad the period of absence from the University shall be counted as Duty.

16. Leave to the extent prescribed below but not exceeding in any case the period earned may be sanctioned by the authority mentioned against each :

Kind of Leave	Category of employee	Sanctioning Authority	Extent of powers
(A) Casual leave	(i) Heads of departments	Vice-Chancellor	Full
	Deputy Registrar/Assistant registrar of respective sections	Registrar	Full
	(ii) Department employee (teachers other than Head of the Department, Laboratory, Ministerial and Class IV staff)	Registrar	Full
(B) Special Casual Leave	All employees other than Vice-Chancellor	Vice Chancellor	Full
(C) Leave other than casual or special casual leave.	(i) Vice Chancellor	Chancellor	Full
	(ii) Heads of departments and Registrar	Vice Chancellor Executive Council	Upto 2 months Full
	(iii) All Class I and Class II employees	Vice Chancellor Executive Council	Upto 2 months Full
	(iv) Class III and Class IV staff in University	Registrar Vice Chancellor	upto one month Full

17. The benefit of surrender and encashment of earned leave will be admissible to the University employees as per the rules applicable to the state government employees from time to time.

D. Part IV : Suspension, Penalties and Disciplinary Authority :

18. The rules and directives as prescribed From time to time by the state government for its employees shall also be applicable to the University employees/teachers.

19. (1) The appointing authority may by an order place an employee, under suspension:

- (a) when a disciplinary proceeding against him is contemplated or is pending, or
- (b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial.

(2) An employee shall be deemed to have been placed under suspension by an order of the appointing authority:

- (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise for a period exceeding forty eight hours.
- (b) with effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

(3) An order of suspension made or deemed to have been made shall continue to remain in force until it is modified or revoked by the appointing authority.

20. (1) The appointing authority may, for good and sufficient reasons, impose on an employee the following penalties :

- (a) censure;
- (b) recovery from his pay of the whole or part of any pecuniary loss caused by him to the University by negligence or breach of orders;
- (c) withholding of increments of pay;
- (d) reduction to lower time scale of pay, grade or post;
- (e) compulsory retirement;
- (f) removal from service;
- (g) dismissal from service which shall ordinarily be a disqualification for future employment in the University.

Besides the above, the penalty of fine not exceeding Rupees Fifty may be imposed on a class IV employee for petty carelessness, unpunctuality, idleness or similar misconduct of a minor nature :

Provided that if it is intended to impose minor penalties as enumerated in clause (a) to (c) of subparagraph (1) above, the Registrar in respect of class III and IV employees and the Vice-Chancellor in respect of other employees including the teaching staff may institute disciplinary proceedings and may pass appropriate orders.

(2) The appointing authority may institute disciplinary proceeding against a employee of the University.

21. (1) No order imposing any of the penalties specified in (d) to (g) of subparagraph (1) above other than fine shall be made except in accordance with the procedure for imposing penalties on government servant prescribed by the state government and in force at the time the appointing authority orders an inquiry against the employee concerned.

(2) For imposing penalties specified in clause (a) to (c) of subparagraph (1) above, a summary procedure as prescribed in the state government rules may be followed mutatis mutandis.

22. (1) Where any penalty is imposed on an employee by the Registrar, the employee concerned may prefer an appeal to the Vice-Chancellor within thirty days from the date on which a copy of the order appealed against is delivered to the appellant.

(2) Where any penalty is imposed on an employee by the Vice-Chancellor, the employee concerned may prefer an appeal to the Executive Council within thirty days from the date on which a copy of the order appealed against is delivered to the appellant.

(3) Where any penalty is imposed on an employee by the Executive Council, he may prefer an appeal to the Chancellor within thirty days from the date on which a copy of the order appealed against is delivered to the appellant.

(4) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies. It shall not contain any disrespectful or improper language and shall be complete in itself.

(5) The authority which made the order appealed against shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any unavoidable delay and without waiting for any direction from the appellate authority.

(6) (i) The appellate authority may confirm, enhance, reduce or set aside the penalty or remit the case to the authority which imposed the penalty with such directions as it may deem fit in the circumstances of the case.

(ii) The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

23. A University employee under suspension shall not be granted any leave.

24. An employee under suspension will be entitled for subsistence allowance and allowances as per State Government rules in force.

25. When a University employee who has been dismissed, removed, or suspended, is reinstated, the authority competent to order of reinstatement shall make a specific order. —

(a) regarding the pay and allowances to be paid to the employee for the period of his absence from duty; and

(b) whether or not the said period shall be treated as period spent on duty for all purposes.

E. Part V : Miscellaneous:

26. Every employee shall at all times :

- (i) maintain absolute integrity_
- (ii) show devotion to duty_ And
- (iii) do nothing which is unbecoming of an employee of the University.

27. No employee shall join or continue to be a member of such association the objects or activities of which are prejudicial to the interest of the University or public order, decency or morality.

28. No employee shall.—

- (a) engage himself or participate in any demonstration which is prejudicial to the interest of the University, public order, decency or morality or which involves contempt of court, defamation or incitement to an offence, or
- (b) resort to or, in any way, abet any form of violence in connection with any matter pertaining to his service or the service of any employee.

29. (a) No employee shall except with the previous sanction of the University own wholly or in part, or conduct, or participate in the editing or management of any newspaper or periodical publication.

(b) No employee shall except with the previous sanction of University or the prescribed authority or in the bonafide discharge of his duties, participate in a radio broadcast or contribute any article or write any letter either in his own name or anonymously, pseudonymously in any news paper or periodical or write a book:

Provided that no such sanction shall be required if such broadcast or such contribution or writing is of a purely literary, artistic or scientific character.

30. No employee shall except in accordance with any general or special order of the University or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly, an official document or any part thereof or information to any other employee or any other person to whom he is not authorised to communicate such document or information.

31. No employee shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the University.

32. No University employee shall, except with the previous written sanction of the University, join any College/school or appear at any examination conducted by the University or any other University or Board. Permission to attend classes or take an examination will be granted only, if it is consistent with University interest and it cannot be claimed as a matter of right.

33. No University employee except those specifically employed on a part time basis shall, without the previous permission of the University, apply for any post, outside the University.

34. Any infringement of provisions of paras 33 to 40 of this Statute shall be regarded as subversive of good discipline and misconduct and will well justify the initiation of disciplinary action against such employee.

35. All provisions pertaining to discipline as contained in rule 4 of M. P. Civil Services (Conduct) Rules shall be deemed to be part of University Conduct Rules not provided in the provisions of para 33 to 40 of University Rules.

36. Save as otherwise provided in the Act and the Statutes, the provisions of this Statute shall apply to all employees of the University other than those whose services have been lent to the University by the central or State Government.

STATUTE - XXXV

Learned Professions

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Learned Profession) statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) "Statute" means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) "words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The following shall be the learned professions for the purpose of clause (XI) of sub section 1 of Section 21 of the Act –

- (i) Faculty of Medicine
- (ii) Faculty of Dentistry
- (iii) Faculty of Ayurved & Unani
- (iv) Faculty of Homoeopathy, Yoga, SIDDHA
- (v) Faculty of Nursing sciences
- (vi) Faculty of Allied Health Sciences
- (vii) Eminent Scientists, Scholars and man of letter,

STATUTE - XXXVI

Establishment of University Teaching Departments and Institution of Teaching Posts

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Establishment of University Teaching Departments and Institution of Teaching Posts) statute, 2013

2. **Definition.-** In this statute, unless the context otherwise requires,—

- (a) "Statute" means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);

- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The University Teaching Departments shall be administered and managed by the University.

The University Teaching Departments shall be centres for research, excellence in health science education and instruction.

4. The establishment and abolition of University Teaching Departments in a particular subject shall be done through the following procedure :

- (i) The University Teaching Department may be started in the subjects mentioned in the Statutes and ordinances from time to time.
- (ii) The proposal for opening a University Teaching Department shall be made by the Academic Council.
- (iii) The Academic Council shall also make proposals for the Institution of teaching posts in the University Teaching Departments.
- (iv) The proposals made by the Academic Council for opening a University Teaching Department and for Institution teachings posts in the University Teaching Departments shall be placed before the Executive Council.
- (v) After approval by the Executive Council, the University teaching department shall be opened and teaching posts shall be instituted.

STATUTE - XXXVII

Grievance Committee

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Grievance Committee) statute, 2013.

2. **Definition.**— In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. There shall be a Grievances Committee in the University to deal with the grievances of teachers and other employees of the University, Colleges, Institutions and recognised Institutions and to hear and settle grievances as far as may be practicable within six months, and the committee shall make a report to the Executive Council.

4. It shall be lawful for the Grievances Committee to entertain and consider grievances or complaints and report to the Executive Council for taking such action as it deems fit and the decisions of the Executive Council on such report shall be final.

5. The Grievances Committee shall consist of the following members, namely :

- (1) Vice-Chancellor—Chairperson;
- (2) Four members of the Executive Council nominated by the Executive Council from amongst themselves —Members;
- (3) The Registrar —Member Secretary

6. The Registrar shall have no right to vote.

STATUTE - XXXVIII

Purchase Committee

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Purchase Committee) statute, 2013.

2. **Definition.**— In this statute, unless the context otherwise requires,-

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. There shall be a Purchase Committee for dealing with all matters pertaining to all purchases of the University, in respect of such items where individual cost of each item exceeds rupees one lakh, at a time ;

4. The committee shall consist. of the following members, namely :—

- (1) three Heads of University Institutions or departments, or government affiliated Colleges nominated by the Vice-Chancellor ;
- (2) two members, nominated by the Executive Council, from amongst its members;
- (3) the Registrar ;
- (4) the Finance and Accounts Controller/ Officer; Chairperson will be nominated from amongst the members of the committee by the Vice-Chancellor

5. The Finance and Accounts Officer shall ordinarily act as the Secretary of the Purchase Committee. During the period when there is no Finance and Accounts Controller/ Officer or during the Controller/ Officer’s absence, the Registrar shall act as the Secretary of the committee;

6. The Purchase Committee shall invite the heads of the University Institutions or departments for which the purchase is to be made ;

7. All members of the Committee, other than *ex officio* members, shall hold office for a period of two years;

8. The powers and duties of the Committee and the procedure for its meetings shall be such as may be prescribed by Regulations from time to time.

STATUTE - XXXIX

Library Committee

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvedigyan Vishwavidyalaya (Library Committee) statute, 2013.

2. **Definition.**—In this statute, unless the context otherwise requires,—

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvedigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. There shall be a library committee for administering, organising and maintaining the libraries and library services of the University. It shall consist of the following members, namely:-

- (1) The Vice-Chancellor— Chairperson .
- (2) Three Deans of faculties, nominated by the Vice-Chancellor ;
- (3) Three Heads of University Institution or departments, nominated by the Vice-Chancellor;
- (4) Two teachers, nominated by the Academic Council, from amongst members;
- (5) Two teachers, nominated by the Vice-Chancellor
- (6) The Registrar;
- (7) The Librarian- Secretary

4. All members of the Library Committee other than the *ex officio* members shall hold office for a period of five years.

5. The- duties of the Committee shall be as follows:—

- (1) To provide for proper organization and functioning of the library documentation services and updating the stock of books; -
- (2) To provide for modernisation and improvement of library; and documentation services;
- (3) To recommend to the Executive Council fees and other charges for the use of library services by students and others;

- (4) To prepare the annual budget and proposals for development of the library, for approval of the Executive Council;
- (5) To submit the annual report on the functioning of the library.

STATUTE - XL

Withdrawal of Degrees, Diplomas, Certificates and Other Academic Distinctions

1. **Short title.**—This Statute may be called the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Withdrawal of Degrees, Diplomas, Certificates and Other Academic Distinctions) statute, 2013

2. **Definition.**—In this statute, unless the context otherwise requires,-

- (a) “Statute” means the Statute under the provisions of section 36 and 37 of the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 (No. 19 of 2011);
- (b) “words and expressions used but not defined in this statute shall have the meaning as assigned to them in the Act.

3. The Court may, on the recommendation of the Executive Council, withdraw any distinction, degree, diploma, certificate or privilege conferred or granted to any person, by a resolution passed by the majority of the total members of the Court and by a majority of not less than two-thirds of the member of the Court present and voting at the meeting;

- (i) if such person has been found to have been convicted by a Court of Law for an offence, in the opinion of the Court, involves moral turpitude or;
- (ii) if he has been quality of gross misconduct or if he has been found to have obtained such a degree, or diploma or certificate fraudulently or has obtained admission through a false caste certificate.
- (iii) No action, under these Statutes, shall be taken against any person unless he has been given an opportunity to show cause against the action proposed to be taken.

4. A copy of the resolution passed by the Court shall be immediately sent to the person concerned.

- (i) Any person aggrieved by the decision taken by the Court may appeal to the Chancellor, within thirty day; from the date of receipt of such resolution.
- (ii) The decision of the Chancellor shall be final on such appeal.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
एस. एस. कुमरे, उपसचिव.